

**VOLUME VII**  
**TRANSCRIPT OF RECORD**

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**Supreme Court of the United States**

**OCTOBER TERM, 1961**

**No. 304**

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**CONTINENTAL ORE COMPANY, ET AL.,  
PETITIONERS,**

**vs.**

**UNION CARBIDE AND CARBON  
CORPORATION, ET AL.**

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**ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

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**PETITION FOR CERTIORARI FILED AUGUST 11, 1961  
CERTIORARI GRANTED OCTOBER 23, 1961**

*Union Carbide & Carbon Corp., et al.*    **2311**

Plaintiffs' Exhibit No. 149—(Continued)

United States Vanadium Corporation  
Uravan, Colorado

October 11, 1940

Vanadium Corporation of America  
Boulder, Colorado

Attention: Mr. Robert Sterling

Gentlemen:

Please find herewith report covering production from Maggie "C", et al properties for the month of September, 1940.

Referring also to your inquiry under date of the 28th ultimo, please be advised that no distribution has been made on our part, between the Maggie "C" and Donald L; we built one bin to handle the surface production from the former and a second bin to keep the ores from the underground production of the Maggie "C" and Donald L separate from our Coloradium, since all were mined through the same entry.

A breakdown of the Maggie "C" and Republican tonnage beginning with January, 1940 settlements may best be clarified by referring to your files covering same, as follows:

January—All Maggie "C".

February—All Maggie "C".

March—All Maggie "C".

April—Last two loads on settlement under dates



No. 16149

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**United States**  
**Court of Appeals**  
for the Ninth Circuit

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CONTINENTAL ORE COMPANY, a Partnership, and HENRY J. LEIR, ERNA D. LEIR, LINA SCHLOSS, as Individuals and as partners under the trade name and style of CONTINENTAL ORE COMPANY,

Appellants,

vs.

UNION CARBIDE AND CARBON CORPORATION; UNITED STATES VANADIUM CORPORATION; ELECTRO METALLURGICAL COMPANY; ELECTRA METALLURGICAL SALES CORPORATION; ELECTRO METALLURGICAL COMPANY OF CANADA, LIMITED; VANADIUM CORPORATION OF AMERICA,

Appellees.

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**Transcript of Record**

In Seven Volumes

VOLUME VII.

Book of Exhibits

(Pages 2311 to 2564, inclusive)

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Appeal from the United States District Court  
for the Northern District of California,  
Southern Division

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2312 *Continental Ore Company, et al., vs.*

Plaintiffs' Exhibit No. 149—(Continued)

4/22 & 4/25 total 39.945 tons are Republican, balance Maggie "C".

May—Maggie "C" production is shown on 1st page of settlement—total 374.08 tons, Republican on second sheet—total 165.84 tons.

June—Maggie "C" production is represented by the 1st group of figures dated 6/1 to 6/28 incl. and totaling 293.750 tons: the balance starting under date of 6/10 to 6/25 inclusive—total 91.105 tons represents production from the Republican.

From June 28 to the present we have mined no ore from the Republican claim and the tonnage shown in the reports represent Maggie "C" production.

In late August and early September we ran a development drift in low grade ore in the Donald L., but no ore of shipping grade was produced.

We trust this gives you the information desired, and beg to remain

Yours very truly,

UNITED STATES VANADIUM  
CORPORATION,  
/s/ W. G. HALDANE,  
Superintendent.

W. G. Haldane/ms  
Enc. 2

## Plaintiffs' Exhibit No. 149--(Continued)

UNITED STATES VANADIUM CORPORATION

Uravan, Colorado

November 8, 1940

MINING AND MILLING "MAGGIE C" AND OTHER V.C.A. ORES

October, 1940

All Maggie "C"

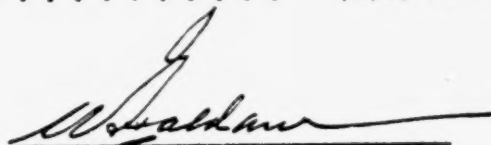
<u>Date</u>	<u>Tons Hauled</u>	<u>Analysis V2O5</u>	<u>Lbs. V2O5</u>
9/30	8.700	1.62	281.88
10/1	10.625	3.04	646.00
3	10.450	3.40	710.60
7	10.400	2.30	478.40
7	10.575	1.70	359.55
8	11.075	1.80	392.70
10	10.650	2.06	438.78
10	10.150	1.88	381.64
12	10.250	1.52	311.60
15	8.350	1.62	270.54
16	9.525	1.40	266.70
17	10.350	2.46	509.22
19	9.100	2.78	505.96
19	9.600	2.14	410.88
22	8.350	2.40	400.80
24	8.425	2.82	475.17
25	8.725	1.82	319.11
26	10.350	3.00	621.00
29	10.025	1.70	340.85
31	<u>7.775</u>	<u>2.14</u>	<u>332.77</u>
	193.450	<u>2.19</u>	8460.45

Extraction - 75% Recovery . . . . . 6345.238

Previously Extracted . . . . . 404118.394

Total Lbs. extracted to 11/1/40 410464.232

Shipped to November 1, 1940 . . . . . 717843.00 lbs.

  
 Superintendent

UNITED STATES VANADIUM CORPORATION

118  
Plaintiffs' Exhibit No. 149--(Continued)

(716)  
**UNITED STATES VANADIUM CORPORATION**

URAVAN, COLORADO

November 9, 1940



Vanadium Corporation of America  
Naturita, Colorado

Gentlemen:

We enclose herewith original and copy of  
Maggie "C" tonnage for the month of October, 1940.

Yours very truly,

UNITED STATES VANADIUM CORPORATION

A handwritten signature in cursive script, appearing to read "W. G. Maldane".

Superintendent

MS/W.G.Maldane

UNITED STATES VANADIUM CORPORATION

Uravan, Colorado

November 8, 1940

MINING AND MILLING "MAGGIE C" AND OTHER V.C.A. ORES

October, 1940

All Maggie "C"

<u>Date</u>	<u>Tons Hauled</u>	<u>Analysis V<sub>2</sub>O<sub>5</sub></u>	<u>Lbs. V<sub>2</sub>O<sub>5</sub></u>
9/30	8.700	1.62	281.88
10/1	10.625	3.04	646.00
3	10.450	3.40	710.60
7	10.400	2.30	478.40
7	10.575	1.70	359.55
8	11.075	1.80	398.70
10	10.650	2.06	438.78
10	10.150	1.88	381.64
12	10.250	1.52	311.60
15	8.350	1.62	270.54
16	9.525	1.40	266.70
17	10.350	2.46	509.22
19	9.100	2.78	505.96
19	9.600	2.14	410.88
22	8.350	2.40	400.80
24	8.425	2.82	475.17
25	8.725	1.82	319.41
26	10.350	3.00	621.00
29	10.025	1.70	340.85
31	7.775	2.14	332.77
	<u>193.450</u>		<u>8460.45</u>

Extraction - 75% Recovery . . . . . 6345.338

Previously Extracted . . . . . 404118.894

Total Lbs. extracted to 11/1/40 410464.232

Shipped to November 1, 1940 . . . . . 717848.00 lbs.

(Signed) W. G. Haldane  
Superintendent

UNITED STATES VANADIUM CORPORATION

225

87.00  
1 06.25  
1 04.50  
1 04.00  
1 05.75  
1 10.75  
1 06.50  
1 01.50  
1 02.50  
83.50  
95.25  
1 03.50  
91.00  
96.00  
83.50  
84.25  
87.25  
1 03.50  
1 00.25  
77.75

1 934.00  
281.58  
646.00  
710.60  
478.40  
359.55  
398.70  
438.78  
381.64  
311.60  
270.54  
266.70  
509.22  
505.98  
2-  
410.88  
400.80  
475.17  
319.41  
621.00  
340.55  
332.77

63.453.38  
4.041.188.94  
410.6042.50  
410.6042.50

053

## Plaintiffs' Exhibit No. 149--(Continued)

UNITED STATES VANADIUM CORPORATION

Uravan, Colorado

December 4, 1940

MINING AND MILLING "MAGGIE C"OTHER V.C.A. ORES

November, 1940

All Maggie "C"

<u>Date</u>	<u>Tons Hauled</u>	<u>Analysis <math>V_2O_5</math></u>	<u>Lbs. <math>V_2O_5</math></u>
11/5	7.900	1.36	214.980
5	8.800	2.26	397.760
6	9.050	1.50	271.500
8	7.500	2.08	312.000
13	9.050	1.74	314.940
13	9.100	1.54	280.280
15	8.150	1.70	277.100
16	6.500	2.30	299.000
18	10.225	2.84	580.780
21	10.500	2.00	420.000
27	8.700	2.00	348.000
28	7.875	1.75	275.625
	<u>103.350</u>	<u>1.93</u>	<u>3991.665</u>

Extraction - 75% Recovery . . . . . 2993.899

Previously Extracted . . . . . 410464.232

Total lbs. extracted to 12/1/40 413458.131

Shipped to December 1, 1940 . . . . . 717848.00 lbs.

(signed) W. G. Haldane  
Superintendent

UNITED STATES VANADIUM CORPORATION ;

Plaintiffs' Exhibit No. 149--(Continued)

714  
**UNITED STATES VANADIUM CORPORATION**

URAVAN, COLORADO

December 6, 1940



Vanadium Corporation of America  
Naturita, Colorado

Gentlemen:

We enclose herewith Maggie "C" account for  
the month of November, 1940.

Yours very truly,

UNITED STATES VANADIUM CORPORATION

*W.G. Haldane*  
Superintendent

W.G.Haldane/ms

Enc. 2

125:

1 copy -



Plaintiffs' Exhibit No. 149--(Continued)

UNITED STATES VANADIUM CORPORATION

Uravan, Colorado

December 4, 1940

MINING AND MILLING "MAGGIE C" AND OTHER V.C.A. ORES

November, 1940

All Maggie "C"

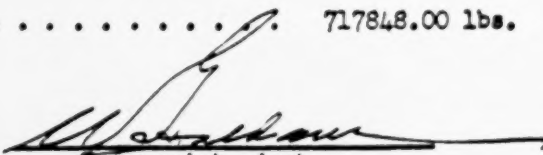
<u>Date</u>	<u>Tons Hauled</u>	<u>Analysis V<sub>2</sub>O<sub>5</sub></u>	<u>Lbs. V<sub>2</sub>O<sub>5</sub></u>
11/5	7.900	1.36	214.880
5	8.800	2.26	397.760
6	9.050	1.50	271.500
8	7.500	2.08	312.000
13	9.050	1.74	314.940
13	9.100	1.54	280.280
15	8.150	1.70	277.100
16	6.500	2.30	299.000
18	10.225	2.84	580.780
21	10.500	2.00	420.000
27	8.700	2.00	348.000
28	7.875	1.75	275.625
	<u>103.350</u>		<u>3991.865</u>

Extraction - 75% Recovery . . . . . 2993.899

Previously Extracted . . . . . 410464.232

Total lbs. extracted to 12/1/40 413458.131

Shipped to December 1, 1940 . . . . . 717848.00 lbs.

  
Superintendent

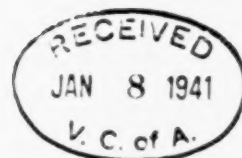
UNITED STATES VANADIUM CORPORATION

Plaintiffs' Exhibit No. 149--(Continued)

## UNITED STATES VANADIUM CORPORATION

UNIT OF UNION CARBIDE  AND CARBON CORPORATION

URAVAN, COLORADO



January 6, 1941

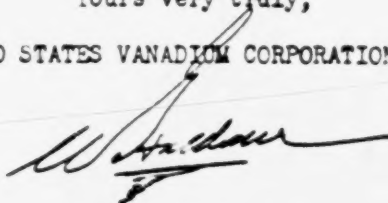
Vanadium Corporation of America  
Naturita, Colorado

Gentlemen:

Our report on Maggie "C" tonnage for the month of  
December, 1940, is enclosed in duplicate.

Yours very truly,

UNITED STATES VANADIUM CORPORATION



Superintendent

W.G.Haldane/ms  
Enc.

## Plaintiffs' Exhibit No. 149--(Continued)

UNITED STATES VANADIUM CORPORATION

Uavan, Colorado

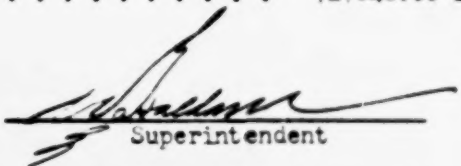
January 6, 1941

MINING AND MILLING "MAGGIE C" AND OTHER V. C. A. ORES

December, 1940

All "Maggie C"

<u>Date</u>	<u>Tons Hauled</u>	<u>Analysis V<sub>2</sub>O<sub>5</sub></u>	<u>Lbs. V<sub>2</sub>O<sub>5</sub></u>
12/2	8.525	1.76	300.080
3	8.150	2.37	386.310
6	9.825	1.92	377.280
13	7.950	2.35	373.500
19	7.525	1.76	264.880
23	7.600	1.90	288.800
<u>31</u>	<u>6.675</u>	<u>1.87</u>	<u>249.645</u>
	56.250		2240.495
Extraction - 75% Recovery . . . . .			1680.371
Previously Extracted . . . . .			<u>413458.131</u>
Total Lbs. Extracted to 1/1/41 . .			415138.502
Shipped to January 1, 1941 . . . . .			717848.00 lbs.


  
Superintendent

UNITED STATES VANADIUM CORPORATION

Plaintiffs' Exhibit No. 149--(Continued)

C  
O  
P  
YUNITED STATES VANADIUM CORPORATION

Uravan, Colorado

February 7, 1941

MINING AND MILLING "MAGGIE C" ORE

January, 1941

<u>Date</u>	<u>Tons Hauled</u>	<u>Analysis <math>V_2O_5</math></u>	<u>Lbs. <math>V_2O_5</math></u>
1/8/41	7.500	2.32	348.000
1/13/41	5.500	1.44	158.400
	<u>13.000</u>		<u>506.400</u>

Extraction - 75% Recovery . . . . . 379.800

Previously Extracted . . . . . 415138.502

Total Lbs. Extracted to 2/1/41 . . 415518.302

Shipped to February 1, 1941 . . . . . 717848.000 lbs.

(signed) W. G. Haldane m.s.  
Superintendent

UNITED STATES VANADIUM CORPORATION

Plaintiffs' Exhibit No. 149--(Continued

**UNITED STATES VANADIUM CORPORATION**

UNIT OF UNION CARBIDE **UCC** AND CARBON CORPORATION

AVAN, COLORADO



February 10, 1941

Vanadium Corporation of America  
Naturita, Colorado

Gentlemen:

We enclose herewith original and duplicate copy  
of report showing tonnage mined from the Maggie "C" for  
the month of January, 1941.

Yours very truly,

UNITED STATES VANADIUM CORPORATION

*W. G. Haldane*  
Superintendent

MS/W.G.Haldane  
Enc.

## Plaintiffs' Exhibit No. 149--(Continued)

UNITED STATES VANADIUM CORPORATION

Uravan, Colorado

February 7, 1941

MINING AND MILLING "MAGGIE C" ORE

January, 1941

<u>Date</u>	<u>Tons Hauled</u>	<u>Analysis <math>V_2O_5</math></u>	<u>Lbs. <math>V_2O_5</math></u>
1/8/41	7.500	2.32	348.000
1/13/41	<u>5.500</u>	<u>1.44</u>	<u>158.400</u>
	13.000		506.400
Extraction - 75% Recovery . . . . .			379.800
Previously Extracted . . . . .			<u>415138.502</u>
Total Lbs. Extracted to 2/1/41 . .			415518.302
Shipped to February 1, 1941 . . . . .			717848.000 lbs.

H. G. Haldane  
Superintendent

UNITED STATES VANADIUM CORPORATION

2315  
2315

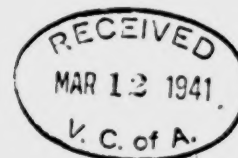
Plaintiffs' Exhibit No. 149--(Continued)

498

**UNITED STATES VANADIUM CORPORATION**

UNIT OF UNION CARBIDE **UCC** AND CARBON CORPORATION

URAVAN, COLORADO



March 10, 1941

Vanadium Corporation of America  
Naturita, Colorado

Gentlemen:

Please find herewith report covering operations on the Maggie "C", Et Al Claims for the month of February.

From our engineer's examination, we find no further ore indicated as available for mining in the underground workings; however, some ore still remains to be removed from the surface, which we will take as quickly as snow and weather conditions permit.

Yours very truly,

UNITED STATES VANADIUM CORPORATION

A handwritten signature in cursive script, appearing to read "W.G. Haldane".

Superintendent

W.G.Haldane/ms  
Enc. 2

CC - J.R.Van Fleet  
Elair Burwell

Plaintiffs' Exhibit No. 149--(Continued)

4-4

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496

UNITED STATES VANADIUM CORPORATION

Uravan, Colorado

March 9, 1941

MINING AND MILLING MAGGIE "C" ORE

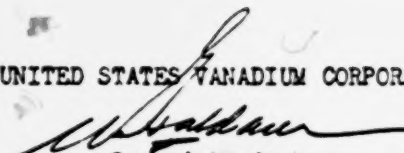
February, 1941

<u>Date</u>	<u>Tons Hauled</u>	<u>Analysis V2O5</u>	<u>Lbs. V2O5</u>
NONE			

Previously Extracted to 3/1/41 . . . . . 415518.302 lbs.

Shipped to March 1, 1941 . . . . . 717848.000 "

UNITED STATES VANADIUM CORPORATION

  
Superintendent



Plaintiffs' Exhibit No. 149--(Continued)

C  
O  
P  
YUNITED STATES VANADIUM CORPORATION

Uravan, Colorado

April 10, 1941

MEMO ONLYMINING AND MILLING MAGGIE "C" ORE

Date	Tons Hauled	Analysis $V_2O_5$	Lbs. $V_2O_5$
March, 1941		NONE	

Previously extracted to 4/1/41 ..... 415,518.302 lbs.

Shipped to April 1, 1941 ..... 717,848.000 "

UNITED STATES VANADIUM CORPORATION

(signed) W. G. Haldane

Superintendent

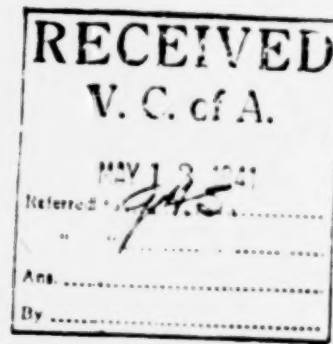
Plaintiffs' Exhibit No. 149--(Continued)

**UNITED STATES VANADIUM CORPORATION**

UNIT OF UNION CARBIDE **UBC** AND CARBON CORPORATION

URAVAN, COLORADO

May 9, 1941



Vanadium Corporation of America  
Naturita, Colorado

Gentlemen:

We are enclosing herewith original and copy  
of Maggie "C" tonnage report for the month of April, 1941.

Yours very truly,

UNITED STATES VANADIUM CORPORATION

*W. G. Haldane*

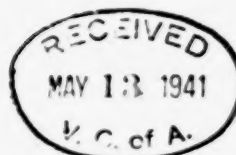
Superintendent

W.G.Haldane/ms  
Enc.

Plaintiffs' Exhibit No. 149--(Continued)

UNITED STATES VANADIUM CORPORATION

Uravan, Colorado



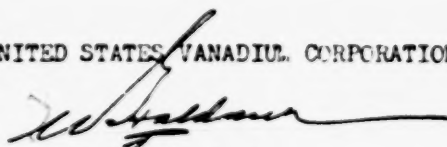
May 8, 1941

MINING AND MILLING MAGGIE "C" ORE

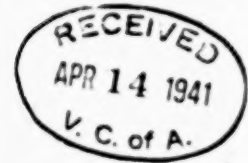
April, 1941

<u>Date</u>	<u>Tons Hauled</u>	<u>Analysis V<sub>2</sub>O<sub>5</sub></u>	<u>Lbs. V<sub>2</sub>O<sub>5</sub></u>
4/22	11.375	2.16	491.400
4/30	11.400	2.46	<u>560.880</u>
			1052.280
Extraction - 75% Recovery . . . . .			789.210
Previously Extracted . . . . .			<u>415,518.302</u>
Total Lbs. Extracted to 5/1/41 . . . .			416,307.512
Shipped to May 1, 1941 . . . . .			717,848.000 lbs.

UNITED STATES VANADIUM CORPORATION

  
Superintendent

Plaintiffs' Exhibit No. 149--(Continued)



UNITED STATES VANADIUM CORPORATION

Uravan, Colorado

April 10, 1941

ONLY

MINING AND MILLING MAGGIE "C" ORE

Date	Tons Hauled	Analysis $V_2O_5$	Lbs. $V_2O_5$
March, 1941	NONE		

Previously extracted to 4/1/41 .....	415,518.302 lbs.
Shipped to April 1, 1941 .....	717,848.000 "

UNITED STATES VANADIUM CORPORATION

A handwritten signature in dark ink, appearing to read "W. Ballou", written over a horizontal line.

Superintendent

Plaintiffs' Exhibit No. 149--(Continued)

**UNITED STATES VANADIUM CORPORATION**

UNIT OF UNION CARBIDE **U.S.C.** AND CARBON CORPORATION

URAVAN, COLORADO

June 10, 1941

<b>RECEIVED</b>	
V. C. C.	
JUN 12 1941	
Referred to	.....
" "	.....
Ans.	.....
By	.....

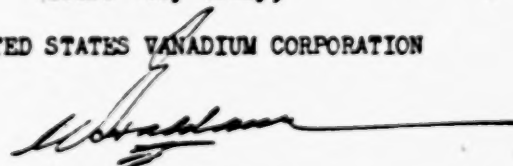
Vanadium Corporation of America  
Naturita, Colorado

Gentlemen:

We are enclosing herewith original and duplicate copies showing Maggie "C" production for the month of May, 1941.

Yours very truly,

UNITED STATES VANADIUM CORPORATION

  
Superintendent

MS/W.G.Haldane  
Enc.

Plaintiffs' Exhibit No. 149--(Continued)

UNITED STATES VANADIUM CORPORATION

Uravan, Colorado

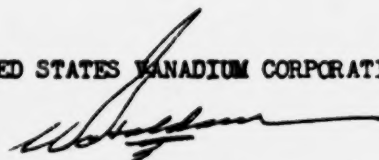
June 6, 1941

MINING & MILLING MAGGIE "C" ORE

May, 1941

<u>Date</u>	<u>Tons Hauled</u>	<u>Analysis <math>V_2O_5</math></u>	<u>Lbs. <math>V_2O_5</math></u>
5/7	11.500	2.77	637.100
5/19	8.200	2.92	478.880
5/23	10.125	2.60	526.500
			<u>1642.480</u>
Extraction - 75% Recovery . . . . .			1231.860
Previously Extracted . . . . .			<u>416,307.512</u>
Total Lbs. Extracted to 6/1/41 . . . . .			417,539.372
Shipped to June 1, 1941 . . . . .			717,848.000 lbs.

UNITED STATES VANADIUM CORPORATION



Superintendent

Plaintiffs' Exhibit No. 149--(Continued)

## UNITED STATES VANADIUM CORPORATION

UNIT OF UNION CARBIDE **URC** AND CARBON CORPORATION

URAVAN, COLORADO

July 11, 1941

RECEIVED	
V. C. of A.	
JUL 14 1941	
Referred to .....	
" .....	
Ans. ....	<i>file</i>
By .....	

Vanadium Corporation of America  
Naturita, Colorado

Gentlemen:

We are enclosing herewith Maggie "C"  
report covering June tonnage.

Yours very truly,

UNITED STATES VANADIUM CORPORATION

*W. G. Haldane*  
Superintendent

W.G.Haldane/ms  
Enc.

2317

Plaintiffs' Exhibit No. 149--(Continued)



UNITED STATES VANADIUM CORPORATION  
Uravan, Colorado

July 8, 1941

MINING & MILLING MAGGIE "C" ORE

June, 1941

<u>Date</u>	<u>Tons Hauled</u>	<u>Analysis V<sub>2</sub>O<sub>5</sub></u>	<u>Lbs. V<sub>2</sub>O<sub>5</sub></u>
6/2/41	9.625	1.42	273.35
13	8.300	2.07	343.62
14	9.925	2.27	450.60
18	8.400	2.38	399.84
20	10.775	1.71	368.51
24	7.500	1.33	199.50
30	<u>9.375</u>	1.30	<u>243.75</u>
	63.900		2279.17

Extraction - 75% Recovery . . . . . 1709.38

Previously extracted . . . . . 417,539.372

Total Lbs. Extracted to 7/1/41 . . . . . 419,248.752

Shipped to July 1, 1941 . . . . . 717,848.000 lbs.

UNITED STATES VANADIUM CORPORATION

Superintendent



Plaintiffs' Exhibit No. 149--(Continued)

**UNITED STATES VANADIUM CORPORATION**

UNIT OF UNION CARBIDE **UAC** AND CARBON CORPORATION

URAVAN, COLORADO

Aug. 9, 1941.

**RECEIVED**  
**V. C. of A.**

AUG 12 1941

Referred to .....  
Ans. ....  
By .....

Vanadium Corporation of America,  
Naturita, Colorado.

Gentlemen:

We are enclosing herewith Maggie "C"  
report covering July tonnage.

Yours very truly,

UNITED STATES VANADIUM CORPORATION

*W. H. Haldane*  
Superintendent

WCHaldane/v  
Enc.

Plaintiffs' Exhibit No. 149--(Continued)

UNITED STATES VANADIUM CORPORATION

Uravan, Colorado.

July 9, 1941.

MINING & MILLING MAGGIE "C" ORE

July, 1941.

<u>Date</u>	<u>Tons Hauled</u>	<u>Analysis V<sub>2</sub>O<sub>5</sub></u>	<u>Lbs. V<sub>2</sub>O<sub>5</sub></u>
7-1-41	8.500	1.44	244.80
1	8.900	2.24	398.72
2	8.050	1.80	289.80
14	8.150	1.23	200.49
14	8.875	1.44	255.60
25	10.550	1.42	299.62
27	10.525	2.99	629.40
29	10.700	1.32	282.48
30	11.600	2.74	496.48
31	8.600	1.63	280.36
	<u>94.450</u>		<u>3377.75</u>

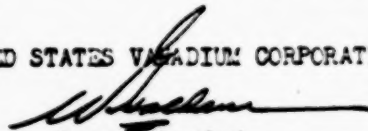
Extraction - 75% Recovery . . . . . 2,533.31

Previously extracted . . . . . 419,248.752

Total Lbs. Extracted to 8-1-41 . . . . . 421,782.062

Shipped to August 1, 1941 . . . . . 717,848.000 Lbs.

UNITED STATES VANADIUM CORPORATION

  
Superintendent

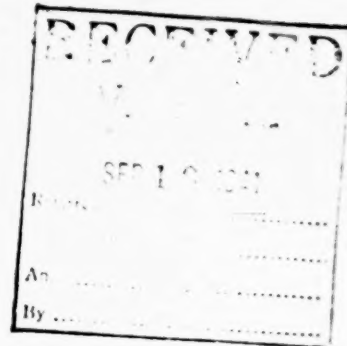
Plaintiffs' Exhibit No. 149--(Continued)

**UNITED STATES VANADIUM CORPORATION**

UNIT OF UNION CARBIDE **SPC** AND CARBON CORPORATION

URAVAN, COLORADO

September 8, 1941



Vanadium Corporation of America  
Naturita, Colorado

Gentlemen:

We are enclosing herewith Maggie "C"  
report covering August tonnage.

Yours very truly,

UNITED STATES VANADIUM CORPORATION

*W.G. Haldane*  
Superintendent

W.G. Haldane, mc  
Encl.

*See 7-10-111*

707



706  
**UNITED STATES VANADIUM CORPORATION**

UNIT OF UNION CARBIDE **UMC** AND CARBON CORPORATION

URAVAN, COLORADO

October 7, 1941

Vanadium Corporation of America  
Naturita, Colorado

Gentlemen:

We are enclosing herewith Maggie "C"  
report covering September tonnage.

Yours very truly,

UNITED STATES VANADIUM CORPORATION

*A. H. Coleman*

Superintendent

A.H.Coleman,mc  
Encl.

RECORDED  
OCT 10 1941  
INDEXED  
By \_\_\_\_\_

RECORDED  
INDEXED  
By \_\_\_\_\_

UNITED STATES VANADIUM CORPORATION

Uravan, Colorado

October 8, 1941

MINING & MILLING MAGGIE "C" ORE

September - 1941

<u>Date</u>	<u>Tons Hauled</u>	<u>Analysis V<sub>2</sub>O<sub>5</sub></u>	<u>Lbs. V<sub>2</sub>O<sub>5</sub></u>
9/4	11.100	1.76	390.72
9/10	10.625	1.45	308.13
9/10	9.975	1.71	341.15
9/16	11.175	2.04	455.94
9/19	11.775	1.43	336.77
9/25	8.925	1.43	255.26
9/26	8.650	1.49	257.77
9/29	11.025	1.49	328.55
9/30	<u>10.375</u>	2.08	<u>431.60</u>
	93.625		3105.89

Extraction - 75% Recovery . . . . .	2,329.420
Previously Extracted . . . . .	<u>423,401.322</u>
Total Lbs. Extracted to 10/1/41 . . . . .	425,730.742
Shipped to October 1, 1941 . . . . .	717,848.000 Lbs.

UNITED STATES VANADIUM CORPORATION

*R. H. Colman*  
Superintendent

FILED  
No. 29008  
CLIFF'S BUREAU No. 157  
UN 157 JUN 18 1938

ORATION

755  
October 9th, 1941

Vanadium Corporation of America  
420 Lexington Avenue  
New York, New York

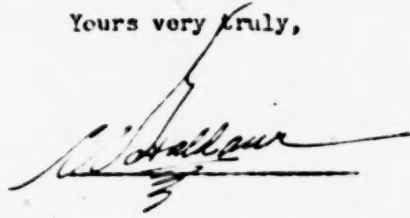
Re: Dry Valley Production

Gentlemen:

Re the captioned subject, please be advised that we have mined during the month of September, 1941, a total of 1390.687 tons containing 50509.17 lbs. V2O5.

We believe you will want the above figure at this time in connection with the Molybdenum Corporation of America contract covering Dry Valley.

Yours very truly,



vl/W.G. Haldane  
USV

254  
R.B.  
note & return  
11/8 file (691)  
2025  
Plaintiffs' Exhibit No. 150--(Continued)

**UNITED STATES VANADIUM CORPORATION**  
CARBIDE AND CARBON BUILDING  
30 EAST FORTY-SECOND STREET  
NEW YORK

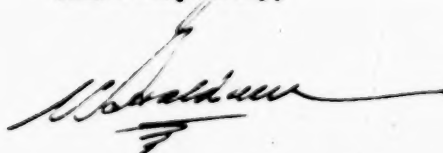
October 15, 1941

The Vanadium Corporation of America  
420 Lexington Avenue  
New York, N. Y.

Gentlemen:

Herewith please find statement covering  
Maggie "C" — Dry Valley production for September,  
1941, and oblige

Yours very truly,



Assistant General Superintendent

AP/ W. G. Haldane  
USVC

Attach.

copy to  
file 10720741



UNITED STATES VANADIUM CORPORATION

Uravan, Colorado

October 13, 1941

MINING & MILLING MAGGIE "C" - DRY VALLEY ORE

September - 1941

MAGGIE "C"

<u>Date</u>	<u>Tons Hauled</u>	<u>Analysis V<sub>2</sub>O<sub>5</sub></u>	<u>Lbs. V<sub>2</sub>O<sub>5</sub></u>
9/4	11.100	1.76	390.72
9/10	10.625	1.45	308.13
9/10	9.975	1.71	341.15
9/16	11.175	2.04	455.94
9/19	11.775	1.43	336.77
9/25	8.925	1.43	255.26
9/26	8.650	1.49	257.77
9/29	11.025	1.49	328.55
9/30	<u>10.375</u>	2.08	<u>431.60</u>
	93.625		3105.89

DRY VALLEY

Dry Tons Mined  
and Stockpiled

Prior to Sept. 1st . . .	4,177.82		161,095.90.
During Sept. . . . .	1,390.687	1.82	<u>50,509.17</u> ✓

<u>Total</u>		214,710.96
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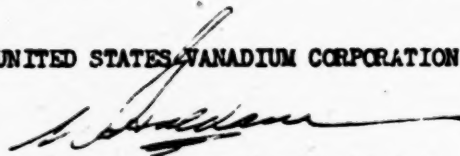
Extraction - 75% Recovery . . . . .	161,033.22
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Previously Extracted . . . . .	<u>423,401.322</u>
--------------------------------	--------------------

Total Lbs. Extracted to 10/1/41 . . . . .	584,434.542
---	-------------

Shipped to October 1, 1941 . . . . .	717,848.00
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UNITED STATES VANADIUM CORPORATION



Assistant General Superintendent

AF/ W. G. Haldane

F. F. Kett  
754

UNITED STATES VANADIUM CORPORATION  
CARBIDE AND CARBON BUILDING  
30 EAST FORTY-SECOND STREET  
NEW YORK

November 10, 1941

The Vanadium Corporation of America  
420 Lexington Avenue  
New York, N. Y.

Gentlemen:

Herewith please find statement covering  
Maggie "C" — Dry Valley production for October,  
1941, and oblige

Yours very truly,

*Blair Burwell*  
General Superintendent

AF/ Blair Burwell  
USVC

Attach.

UNITED STATES VANADIUM CORPORATION

Uravan, Colorado

MINING & MILLING MAGGIE "C" — DRY VALLEY ORE

October - 1941

MAGGIE "C"

<u>Date</u>	<u>Tons Hauled</u>	<u>Analysis V<sub>2</sub>O<sub>5</sub></u>	<u>Lbs. V<sub>2</sub>O<sub>5</sub></u>
10/2	9.700	1.28	248.320

DRY VALLEY

<u>Dry Tons Mined and Stockpiled in October, 1941</u>	1480.763	1.9251	<u>57010.850</u>
<u>Total</u>			57259.170

Extraction - 75% Recovery . . . . .	42944.378
Previously Extracted . . . . .	<u>58443.542</u>
Total Lbs. Extracted to 11/1/41 . . . . .	627378.920
Shipped to November 1, 1941 . . . . .	717848.000

UNITED STATES VANADIUM CORPORATION

AF/ Blair Burwell  
B

General Superintendent

# UNITED STATES VANADIUM CORPORATION

UNIT OF UNITED CARBIDE (UCC) AND CARBON CORPORATION

URAVAN, COLORADO

November 10, 1941



Vanadium Corporation of America  
Naturita, Colorado

Gentlemen:

We are enclosing herewith Maggie "C" report covering October tonnage.

Yours very truly,

UNITED STATES VANADIUM CORPORATION

*A. H. Coleman*

Superintendent

A. H. Coleman, Inc.  
Encl.

## UNITED STATES VANADIUM CORPORATION

Uravan, Colorado

### MINING & MILLING MAGGIE "C" - DRY VALLEY ORE

October - 1941

#### MAGGIE "C"

<u>Date</u>	<u>Tons Hauled</u>	<u>Analysis V<sub>2</sub>O<sub>5</sub></u>	<u>Lbs. V<sub>2</sub>O<sub>5</sub></u>
10/2	9.700	1.28	218.320

#### DRY VALLEY

<u>Dry Tons Mined and Stockpiled in October, 1941</u>	1480.763	1.9251	57010.850
<u>Total</u>			57259.170

Extraction - 75% Recovery . . . . .	42944.378
Previously Extracted . . . . .	584434.542
Total Lbs. Extracted to 11/1/41 . . . . .	627378.920
Shipped to November 1, 1941 . . . . .	717848.000

UNITED STATES VANADIUM CORPORATION

*A. H. Coleman*

Superintendent

**UNITED STATES VANADIUM CORPORATION**

CARBIDE AND CARBON BUILDING

30 EAST FORTY-SECOND STREET

NEW YORK

November 10, 1941

Vanadium Corporation of America  
420 Lexington Avenue  
New York, N. Y.

Re: Dry Valley Production

Gentlemen:

We are giving below a tabulation of the Dry Valley statement for October, 1941, covering royalties to the Molybdenum Corporation of America for ore removed during this month:

<u>Dry Tons</u> <u>Mined and</u> <u>Stockpiled</u>	<u>%</u> <u>V<sub>2</sub>O<sub>5</sub></u>	<u>Content</u> <u>V<sub>2</sub>O<sub>5</sub></u>	<u>Value at</u> <u>20¢/#V<sub>2</sub>O<sub>5</sub></u>	<u>Cost of</u> <u>Transportation</u>	<u>Net Value</u> <u>at Stockpile</u>	<u>Royalty</u> <u>at 10% of</u> <u>net value</u>
1480.763	1.92	56,861.30	11,372.26	1,702.84	9,669.42	966.94

Yours very truly,

*Blair Burwell*  
General Superintendent

AF/ Blair Burwell  
USVC

*Copy to R.B.  
J.S.K.*

*J 11/13/41* *copy to R.B.  
J.S.K.  
11/13/41  
mcs*

November 21, 1941

Mr. Blair Burwell, Gen. Supt.,  
United States Vanadium Corporation,  
30 East 42nd Street,  
New York City

Dear Blair:

We have here the statement signed by Mr. Coleman for the ore mined from Dry Valley for October, together with your statement for the same production.

You both agree that the tonnage mined was 1480.763. He gives the  $V_2O_5$  content as 1.9251, which you give as 1.92. You show the  $V_2O_5$  content as 56,861.30 pounds; he shows the  $V_2O_5$  content as 57,010.350. Neither of these two figures is correct. The  $V_2O_5$  content based on his analysis is 57,012.337.

Since we have to take your figures regarding tonnage and analyses for payments to the Molybdenum Corporation, we must put in the correct figure for the pounds contained  $V_2O_5$ , which of course for this month of October at least will not check with yours.

Will you please check your figures and send me a revised copy of your product in sheet of November 10th for our records. I am enclosing an extra copy of this letter to you in case you might care to send it to Mr. Coleman.

Very truly yours,

Frederick F. Kett  
General Manager, Mining Division

F.F.K:DR

CC RB

**UNITED STATES VANADIUM CORPORATION**

CARBIDE AND CARBON BUILDING

30 EAST FORTY-SECOND STREET

NEW YORK

December 3, 1941

Vanadium Corporation of America  
420 Lexington Avenue  
New York, N. Y.

Att: Mr. Frederick F. Kett,  
General Manager, Mining Division

Gentlemen:

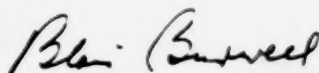
We have received your letter of November 28th concerning our statements covering ore mined from Dry Valley during October, 1941.

Upon checking with our Uravan office, we find an error was made in reporting the percentage of  $V_2O_5$  content, which should have been shown as 1.9521. The correct figure on the  $V_2O_5$  content is 57,010.850 lbs.

We are attaching a revised statement based on the above figures, and would ask that you substitute this for those which you have previously received from Uravan office and this office.

We wish to thank you for calling the matter to our attention, and offer our apology for any inconvenience caused you.

Yours very truly,



General Superintendent

AP  
USVC

Attach.

1-2006  
Plaintiffs' Exhibit No. 150--(Continued)

**UNITED STATES VANADIUM CORPORATION**  
CARBIDE AND CARBON BUILDING  
30 EAST FORTY-SECOND STREET  
NEW YORK

December 3, 1941

Vanadium Corporation of America  
420 Lexington Avenue  
New York, N. Y.

Re: Dry Valley Production

Gentlemen:

We are giving below a tabulation of the Dry Valley statement for October, 1941, covering royalties to the Molybdenum Corporation of America for ore removed during this month:

<u>Dry Tons</u> <u>Mined and</u> <u>Stockpiled</u>	<u>%</u> <u>V<sub>2</sub>O<sub>5</sub></u>	<u>Content</u> <u>V<sub>2</sub>O<sub>5</sub></u>	<u>Value at</u> <u>20¢/#V<sub>2</sub>O<sub>5</sub></u>	<u>Cost of</u> <u>Transportation</u>	<u>Net Value</u> <u>at Stockpile</u>	<u>Royalty at 10%</u> <u>of net value</u>
1480.763	1.9521	57,010.850	11,402.17	1,702.84	9,699.33	969.93

Yours very truly,

*Blair Burwell*  
A.F.

General Superintendent

AP/ Blair Burwell  
USVC

**UNITED STATES VANADIUM CORPORATION**  
CARBIDE AND CARBON BUILDING  
30 EAST FORTY-SECOND STREET  
NEW YORK

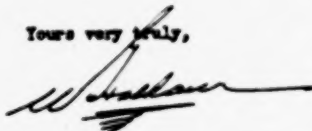
December 9, 1941

Vanadium Corporation of America  
420 Lexington Avenue  
New York, N. Y.

Gentlemen:

Please find attached, statement covering  
Maggie "C" - Dry Valley production for November, 1941,  
and oblige

Yours very truly,



Assistant General Superintendent

AF/ W. G. Maldane  
USVC

Attach.

UNITED STATES VANADIUM CORPORATION

Uravan, Colorado

MINING & MILLING MAGGIE "C" - DRY VALLEY CREEK

November - 1941

MAGGIE "C"

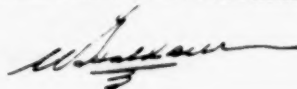
NONE

DRY VALLEY

<u>Dry Tons Mined and Stockpiled in November, 1941</u>	<u>Tons Hauled</u>	<u>Analysis V<sub>2</sub>O<sub>5</sub></u>	<u>Lbs. V<sub>2</sub>O<sub>5</sub></u>
1416.293		1.8301-	21,838.08

Extraction - 75% Recovery . . . . .	38,878.56
Previously Extracted . . . . .	627,378.92
Total Lbs. Extracted to 12/1/41 . . . . .	666,257.48
Shipped to December 1, 1941 . . . . .	717,848.00

UNITED STATES VANADIUM CORPORATION



Assistant General Superintendent

AF/ W. G. Maldane  
B

12/9/41



Plaintiffs' Exhibit No. 150--(Continued)

←←

→→

**UNITED STATES VANADIUM CORPORATION**

CARBIDE AND CARBON BUILDING

30 EAST FORTY-SECOND STREET

NEW YORK

December 9, 1941

Vanadium Corporation of America  
420 Lexington Avenue  
New York, N. Y.

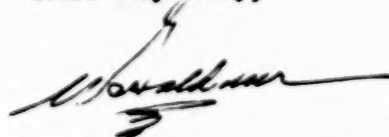
Re: Dry Valley Production

Gentlemen:

Statement covering production from Dry Valley, Utah properties for the month of November, 1941 is shown in the following:

<u>Dry Tons</u> <u>Mined and</u> <u>Stockpiled</u>	<u>%</u> <u>V<sub>2</sub>O<sub>5</sub></u>	<u>Content</u> <u>V<sub>2</sub>O<sub>5</sub></u>	<u>Value at</u> <u>20¢/lb V<sub>2</sub>O<sub>5</sub></u>	<u>Cost of</u> <u>Transportation</u>	<u>Net Value</u> <u>at Stockpile</u>	<u>Royalty at 10</u> <u>of net value</u>
1416.293	1.8301-	51,838.08	10,367.61	1,562.95	8,804.66	880.46

Yours very truly,



Assistant General Superintendent

AP/ W. G. Haldane  
USVC

K 7 246  
R.B.

744

Plaintiffs' Exhibit No. 150--(Continued)

G.J. En 710

UNITED STATES VANADIUM CORPORATION  
CARBIDE AND CARBON BUILDING  
30 EAST FORTY-SECOND STREET  
NEW YORK

January 9, 1942

Vanadium Corporation of America  
420 Lexington Avenue  
New York, N. Y.

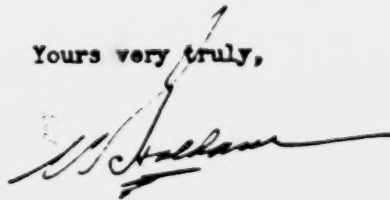
Re: Dry Valley Production

Gentlemen:

Statement covering production from Dry Valley, Utah properties for the month of December, 1941 is shown in the following:

<u>Dry Tons</u> <u>Mined and</u> <u>Stockpiled</u>	<u>%</u> <u>V<sub>2</sub>O<sub>5</sub></u>	<u>Content</u> <u>V<sub>2</sub>O<sub>5</sub></u>	<u>Value at</u> <u>20¢/#V<sub>2</sub>O<sub>5</sub></u>	<u>Cost of</u> <u>Transportation</u>	<u>Net Value</u> <u>at Stockpile</u>	<u>Royalty at 10%</u> <u>of net value</u>
828.182	1.76901	29,301.440	5,860.29	1,126.66	4,733.63	473.36

Yours very truly,



Assistant General Superintendent

AP/ W. G. Haldane  
USVC

Plaintiffs' Exhibit No. 150--(Continued)

**UNITED STATES VANADIUM CORPORATION**  
CARBIDE AND CARBON BUILDING  
30 EAST FORTY-SECOND STREET  
NEW YORK

April 7, 1942

Vanadium Corporation of America  
420 Lexington Avenue  
New York, N. Y.

Gentlemen:

Please find attached the final statement covering the Maggie "C" - Dry Valley production.

This statement shows that the production of ore in Dry Valley and Maggie "C" has been completed, and the account has been closed and settled.

Yours very truly,

*Blair Burwell*  
General Superintendent

At/ Blair Burwell  
USVC

Attach.

UNITED STATES VANADIUM CORPORATION  
Uravan, Colorado  
MINING & MILLING MAGGIE "C" - DRY VALLEY ORE  
March, 1942

MAGGIE "C"

NONE

DRY VALLEY

NONE

Total Lbs. Extracted to 3/1/42, as per Report for February, 1942 . .	733,551.13
Less Correction of the total Lbs. Extracted, in accordance with agreement between Mr. Blair Burwell and Mr. Frederick Kett . . . . .	<u>25,703.23</u>
Corrected Lbs. Extracted to 3/1/42 . . . . .	717,848.00
Shipped to March 1st, 1942 . . . . .	<u>717,848.00</u>
<u>Balance</u>	<u>NONE</u>

UNITED STATES VANADIUM CORPORATION

*Blair Burwell*  
General Superintendent

Plaintiffs' Exhibit No. 150--(Continued)

**UNITED STATES VANADIUM CORPORATION**  
CARBIDE AND CARBON BUILDING  
30 EAST FORTY-SECOND STREET  
NEW YORK

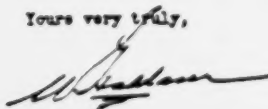
January 9, 1942

Vanadium Corporation of America  
420 Lexington Avenue  
New York, N. Y.

Gentlemen:

Please find attached, statement covering  
Maggie "C" - Dry Valley production for December, 1941,  
and oblige

Yours very truly,



Assistant General Superintendent

AP/ W. G. Haldane  
USVC

Attach.

UNITED STATES VANADIUM CORPORATION

Uravan, Colorado

MINING & MILLING MAGGIE "C" -- DRY VALLEY OPS

December, 1941

MAGGIE "C"

NONE

DRY VALLEY

	<u>Tons Hauled</u>	<u>Analysis V<sub>2</sub>O<sub>5</sub></u>	<u>Lbs. V<sub>2</sub>O<sub>5</sub></u>
--	--------------------	--	--

Dry Tons Mined and Stock-  
piled in December, 1941

828.182

1.7690:

29,301.440

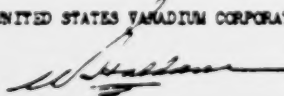
Extraction - 75% Recovery . . . . . 21,976.080

Previously Extracted . . . . . 666,257.480

Total Lbs. Extracted to 1/1/42 . . . . . 688,233.560

Shipped to January 1, 1942 . . . . . 717,848.000

UNITED STATES VANADIUM CORPORATION



Assistant General Superintendent

AP/ W. G. Haldane

Plaintiffs' Exhibit No. 150--(Continued,

*Please Return to 77*

**UNITED STATES VANADIUM CORPORATION**

CARBIDE AND CARBON BUILDING

30 EAST FORTY-SECOND STREET

NEW YORK

(COPY)

February 18, 1942

Vanadium Corporation of America  
420 Lexington Avenue  
New York, N. Y.

Gentlemen:

Please find attached, statement covering  
Maggie "C" - Dry Valley production for January, 1942,  
and oblige

Yours very truly,

*W. G. Haldane*

Assistant General Superintendent

AF/ W. G. Haldane  
USVC

Attach.

## Plaintiffs' Exhibit No. 150--(Continued)

(COPY)

UNITED STATES VANADIUM CORPORATION

Uravan, Colorado

MINING & MILLING MAGGIE "C" — DRY VALLEY ORE

January, 1942

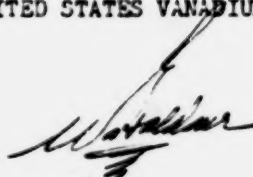
MAGGIE "C"

NONE

DRY VALLEY

	<u>Tons Hauled</u>	<u>Analysis V<sub>2</sub>O<sub>5</sub></u>	<u>Lbs. V<sub>2</sub>O<sub>5</sub></u>
<u>Dry Tons Mined and Stock-</u> <u>piled in January, 1942</u>	279.083	1.7949	31,557.50
Extraction - 75% Recovery . . . . .			23,668.12
Previously Extracted . . . . .			<u>688,273.56</u>
Total Lbs. Extracted to 2/1/42 . . . . .			711,901.68
Shipped to February 1, 1942 . . . . .			717,848.00

UNITED STATES VANADIUM CORPORATION



Assistant General Superintendent

AF/ W. G. Haldane  
B

2/18/42

Plaintiffs' Exhibit No. 150--(Continued)

**UNITED STATES VANADIUM CORPORATION**

CARBIDE AND CARBON BUILDING

30 EAST FORTY-SECOND STREET

NEW YORK

February 18, 1942

Vanadium Corporation of America  
420 Lexington Avenue  
New York, N. Y.

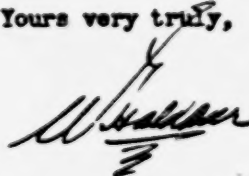
Re: Dry Valley Production

Gentlemen:

Statement covering production from Dry Valley, Utah properties for the month of January, 1942 is shown in the following:

<u>Dry Tons</u> <u>Mined and</u> <u>Stockpiled</u>	<u>%</u> <u>V<sub>2</sub>O<sub>5</sub></u>	<u>Content</u> <u>V<sub>2</sub>O<sub>5</sub></u>	<u>Value at</u> <u>20¢/V<sub>2</sub>O<sub>5</sub></u>	<u>Cost of</u> <u>Transportation</u>	<u>Net Value</u> <u>at Stockpile</u>	<u>Royalty at 10%</u> <u>of net value</u>
879.083	1.7949	31,557.50	6,311.50	621.56	5,689.94	568.99

Yours very truly,



Assistant General Superintendent

AF/ W. G. Haldane  
USVC

Plaintiffs' Exhibit No. 150--(Continued)

**UNITED STATES VANADIUM CORPORATION**  
CARBIDE AND CARBON BUILDING  
30 EAST FORTY-SECOND STREET  
NEW YORK

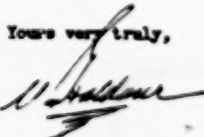
March 11, 1942

Vanadium Corporation of America  
420 Lexington Avenue  
New York, N. Y.

Gentlemen:

Please find attached, statement covering  
Maggie "C" - Dry Valley production for February,  
1942, and oblige

Yours very truly,



Assistant General Superintendent

AF/ W. G. Haldane  
USVC

Attach.

UNITED STATES VANADIUM CORPORATION

Uravan, Colorado

MINING & MILLING MAGGIE "C" - DRY VALLEY ORE

February, 1942

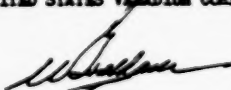
MAGGIE "C"

NONE

DRY VALLEY

	<u>Tons Hauled</u>	<u>Analysis V<sub>2</sub>O<sub>5</sub></u>	<u>Lbs. V<sub>2</sub>O<sub>5</sub></u>
<u>Dry Tons Mined and Stock-</u> <u>piled in February, 1942</u>	666.107	2.0813	27,726.93
To correct error in July, 1941 report . . . . .			<u>1,179.00</u>
			28,865.93
Extraction - 75% Recovery . . . . .			21,649.44
Previously Extracted . . . . .			<u>711,901.62</u>
Total Lbs. Extracted to 3/1/42 . . . . .			733,551.13
Shipped to March 1, 1942 . . . . .			717,846.00

UNITED STATES VANADIUM CORPORATION





Plaintiffs' Exhibit No. 150--(Continued)

**UNITED STATES VANADIUM CORPORATION**

CARBIDE AND CARBON BUILDING

30 EAST FORTY-SECOND STREET

NEW YORK

March 11, 1942

745  
Vanadium Corporation of America  
420 Lexington Avenue  
New York, N. Y.

Re: Dry Valley Production

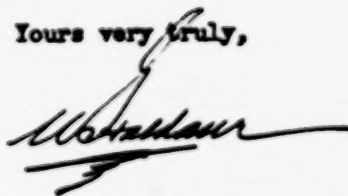
Gentlemen:

Statement covering production from Dry Valley, Utah properties for the month of February, 1942 is shown in the following:

<u>Dry Tons</u> <u>Mined and</u> <u>Stockpiled</u>	<u>%</u> <u>V<sub>2</sub>O<sub>5</sub></u>	<u>Content</u> <u>V<sub>2</sub>O<sub>5</sub></u>	<u>Value at</u> <u>20¢/lb V<sub>2</sub>O<sub>5</sub></u>	<u>Cost of</u> <u>Transportation</u>	<u>Net Value</u> <u>at Stockpile</u>	<u>Royalty at 10%</u> <u>of net value</u>
666.107	2.0813	27,726.93	5,773.18	623.90	5,149.28	514.93
		<u>1,139.00*</u>				
		28,865.93				

\*To correct error in July, 1941 report.

Yours very truly,



Assistant General Superintendent

AF/ W. C. Haldane  
USVC

PLAINTIFFS' EXHIBIT No. 157

AGREEMENT

This Agreement, made and entered into this 12th day of June 1942, by and between Vanadium Corporation of America, a Delaware Corporation, No. 420 Lexington Avenue, New York, New York, party of the first part, hereinafter referred to as Vanadium, and Blanding Mines Company, a Utah Corporation, P. O. Box 188, Cortez, Colorado, party of the second part, hereinafter referred to as Blanding,

Witnesseth:—That for and in consideration of the premises, conditions and covenants hereinafter mentioned to be kept and performed, Vanadium does hereby lease, demise, and grant to Blanding for a period of fifteen (15) years from the date of the execution of this agreement, for the purpose of mining and milling vanadium and uranium ores, certain claims and parts of claims, situated in the County of San Juan, State of Utah, and lying south of Spring Creek and/or east of Cottonwood Creek, the same constituting all claims or parts thereof in said restricted area owned by Vanadium, said claims being described as follows:—

Name of Claim	Date of Original Location	Recorded San Juan County, Utah		Date of Amended Location
		Book	Page	
Badger	March 25, 1931	R	537	Dec. 8, 1937
Birthday	March 25, 1931	R	537	Dec. 8, 1937
Box Canyon	March 20, 1931	R	507	Dec. 8, 1937
Cedar Bird	March 20, 1931	R	506	Dec. 8, 1937

## Plaintiffs' Exhibit No. 157—(Continued)

Name of Claim	Date of Original Location	Recorded San Juan County, Utah		Date of Amended Location
		Book	Page	
Cliff House	March 20, 1931	R	506	Dec. 8, 1937
East Bank	March 25, 1931	R-1	56	
Ledge	March 20, 1931	R	507	Dec. 8, 1937
Lost	April 23, 1931	R	545	Dec. 8, 1937
Point	March 20, 1931	R	505	Dec. 8, 1937
Sand	March 23, 1931	R	541	Dec. 8, 1937
South	March 24, 1931	R	535	Dec. 8, 1937
Spring Creek	March 20, 1931	R	508	Dec. 8, 1937
Found		R-1	276	
Confusion No. 1		R-1	287	
Confusion No. 2		R-1	287	
Cottonwood No. 1				
Cottonwood No. 2		R-1	263	
Cottonwood No. 3		R-1	263	
Wedge		R-1	276	

which claims, together with any additional claims owned by Vanadium which Blanding may at any time be entitled to mine as in this agreement provided, are hereinafter called the leased premises.

The Parties Hereto Covenant and Agree as Follows:

1. As payment therefor, Blanding agrees to pay the following royalties: on all ores mined from the claims covered by this agreement and milled by Blanding, Blanding will pay to Vanadium a minimum royalty of three percent (3%) of the market price per pound, f.o.b. mill on the leased premises, on all pounds of vanadic oxide ( $V_2O_5$ ) contained in the ore mined on the leased premises and there milled, such market price per pound of such con-

Plaintiffs' Exhibit No. 157—(Continued)

tained vanadic oxide ( $V_2O_5$ ) to be the selling price per pound of vanadic oxide ( $V_2O_5$ ) contained in the finished mill product, provided, however, that the aggregate such royalty for each calendar year shall in no event be less than one third ( $1/3$ ) of the total net profit of Blanding for such calendar year computed as set forth in Appendix A hereto attached and hereby made a part hereof, and the amount, if any, by which such one third ( $1/3$ ) of such total net profit for any calendar year shall exceed the aforesaid minimum royalty for said calendar year shall be paid by Blanding to Vanadium by not later than April 1 of the next succeeding calendar year. On ore mined off of the above claims but milled by Blanding in any mill on the leased premises, Blanding will pay to Vanadium two cents (\$0.02) per pound of contained vanadic oxide ( $V_2O_5$ ) in such ore.

2. All ore mined by Blanding on the leased premises and considered by it to be of too low grade to mill will be separately stock piled by Blanding on the leased premises and at any time at the option of Vanadium, shall be sold to it at the market price current at the time for such ore, less, however, in lieu of royalty payable by Blanding to Vanadium in respect to such ore, an amount equal to five cents (\$0.05) per pound of contained vanadic oxide ( $V_2O_5$ ) in such ore. If Blanding desires to sell this ore to a third party and Vanadium does not desire to purchase it on the above basis, then

Plaintiffs' Exhibit No. 157—(Continued)

Blanding may sell such ore to a third party and pay Vanadium five cents (\$0.05) per pound of contained vanadic oxide ( $V_2O_5$ ) in such ore so sold. Except as Blanding shall mill, or separately and normally stock-pile in order to mill, ore mined on the leased premises, whatever the grade of such ore, Vanadium shall have a like option to purchase such ore and to the extent that Vanadium shall elect not to purchase the same, a like right to royalty upon the sale thereof to a third party.

3. Royalties payable under paragraph 1 hereof for milled ore shall, except as otherwise in said paragraph 1 provided, be due and payable on all ore milled in any calendar month not later than the twentieth (20th) day of the next succeeding calendar month and royalties payable under paragraph 2 hereof for ore sold shall be due and payable within twenty (20) days after sale and delivery of such ore.

4. Royalties paid in advance to Frank A. Garbutt by Blanding, amounting to Twenty-five Hundred Dollars (\$2500.00) and not yet earned by said Frank A. Garbutt shall be credited by Vanadium to the first royalty payments to become due by Blanding to Vanadium, until said amount is satisfied.

5. Should Blanding produce ore from the claims covered by this agreement containing a sufficient uranium ( $U_3O_8$ ) content to make it more profitable to sell such ore to a third party than to mill the

Plaintiffs' Exhibit No. 157—(Continued)

same, such ore shall be sold to a third party at the highest price then obtainable and the net proceeds of such sale, after deducting all costs of mining, handling, shipping, and selling, and all other costs properly chargeable to the sale of such ore, shall be divided seventy-five percent (75%) to Vanadium and twenty-five percent (25%) to Blanding.

6. Any claims located or acquired by Vanadium south of Spring Creek or east of Cottonwood Creek and within a distance of one mile of the claims covered by this agreement, may at the option of Blanding be operated and mined by Blanding upon payment of the royalties stated in paragraphs 1 and 2 hereof. Any claims located or acquired by Blanding south of Spring Creek or east of Cottonwood Creek and within a distance of one mile of the claims covered by this agreement may, at the option of Vanadium, be purchased by Vanadium at the cost of acquisition or location including exploration, but the maximum price payable by Vanadium therefor shall be three hundred dollars (\$300.00) on any one claim, and each such claim purchased by Vanadium may be operated by Blanding on the same royalty basis as the claims covered by this agreement. As to each such claim such option to purchase may be exercised by Vanadium not later than ninety (90) days after notice in writing of location or acquisition by Blanding shall have been given to Vanadium, together with a statement of acquisition price and location and development

Plaintiffs' Exhibit No. 157—(Continued)

costs, if any. Copies of drill logs, sampling results and all technical data in connection with such development work by Blanding, shall be furnished to Vanadium with the statement next above mentioned. Blanding will not, without the consent of Vanadium, acquire or lease any claims west of Cottonwood Creek and north of Spring Creek within one mile from the claims owned by Vanadium in that area at the date hereof, or purchase ore mined by third parties from any claims in that area.

7. In the event Blanding shall desire to cease operations on the leased premises, it may, by giving ninety (90) days written notice to Vanadium, discontinue work hereunder and terminate this agreement and surrender possession of the leased premises, in which case all liabilities and obligations of Blanding shall terminate except liabilities for royalties accrued and not yet paid, and thereupon Blanding shall cease operations but shall have a period of one (1) year from and after such surrender of possession within which to remove buildings, machinery, equipment and supplies and tailings. Anything not so removed by Blanding shall become the property of Vanadium.

8. Blanding agrees to carry workmen's compensation upon all workers employed by it upon the leased premises, and in all respects to comply with the applicable mining laws and regulations of the United States and of the State of Utah.

Plaintiffs' Exhibit No. 157—(Continued)

9. Blanding agrees to save Vanadium harmless from claims for material and labor of other parties, and agrees at all times to keep notices posted that the leased premises are being operated under a lease agreement and that Vanadium is not in any manner responsible for any debts for labor, materials, or other debts contracted by Blanding.

10. Blanding agrees to save Vanadium harmless against any operations or actions that Blanding may make or perform on the leased premises and to indemnify Vanadium against any and all loss, damage, claim, liability and expense, that may at any time be incurred, suffered or claimed, by or against Vanadium, by reason of injury, loss or damage to persons or property upon the leased premises or arising out of, or referable to, the leased premises, or the operation thereof, provided such injury, loss or damage shall have occurred during the life of this agreement; and without limiting the generality of the foregoing, Blanding shall carry and maintain in responsible insurance companies such policy or policies of insurance as may be required by the laws of the State of Utah to protect Vanadium from any loss or responsibilities whatsoever to third parties by reason of the operations of Blanding in or upon the leased premises.

11. Blanding agrees that it will apply such work, labor and expenditures as shall be necessary as assessment work upon all claims which it has the



Plaintiffs' Exhibit No. 157—(Continued)

right to operate hereunder, and will, without cost or expense to Vanadium, file and post all notices in regard thereto. When requested by Vanadium so to do, Blanding will furnish to Vanadium a statement showing all expenditures on the claims covered by this agreement, for any part of the assessment year (July 1 to July 1) which could properly be applied to cover assessment work on the claims now owned by Vanadium west of Cottonwood Creek and north of Spring Creek.

12. Blanding agrees to pay all taxes on the leased premises before the same become delinquent; taxes as used herein meaning occupational tax and real and personal property tax assessed by the United States or any political subdivision thereof or by the State of Utah or any department or political subdivision thereof.

13. Blanding agrees that Vanadium shall have the right and privilege, by authorized agent or representative, to enter upon the leased premises at any and all reasonable times in order to inspect the leased premises and to examine the mine and mill records of Blanding.

14. Blanding hereby grants to Vanadium reasonable right of ingress and egress over the leased premises and Vanadium hereby grants to Blanding, reasonable right of ingress and egress over its property in the same locality.

15. This agreement cancels that certain lease agreement dated on or about April 1, 1940 between

Plaintiffs' Exhibit No. 157—(Continued)

Frank A. Garbutt and H. L. Bigler, Dan Milenski and Howard Kimmerle, recorded in Book T3 of Miscellaneous Records at Page 361 of the Books and Records of San Juan County, State of Utah, and which lease was assigned to Blanding, as of the date of this agreement, except as to liabilities under said lease then accrued.

16. Insofar as Blanding and Vanadium have any right to the use of water from Cottonwood Creek and Spring Creek, Blanding shall have the first and prior right to the use of water from said creeks for mining, milling and domestic purposes, up to but not exceeding for such milling, the requirements of a twenty (20) ton mill; and as to any water in said creeks not needed by Blanding for such mining, milling or domestic purposes, Vanadium shall have the first and prior right for mining, milling and domestic purposes; provided, however, that the expense incurred in acquiring such water shall be paid by the user, thereof.

17. In the event Blanding shall fail to perform any of the covenants herein agreed by it to be made and performed, no action for cancellation or termination of this agreement may be taken by Vanadium unless Vanadium shall have given Blanding ninety (90) days notice in writing of its defaults and then this agreement may be cancelled by Vanadium only if Blanding fails to remedy such defaults within said ninety (90) days period, provided, however, that such period of ninety (90)

Plaintiffs' Exhibit No. 157—(Continued)

days shall be extended by ninety (90) days if weather conditions so require; all notices mentioned herein and elsewhere in this agreement must be in writing and sent by registered mail to addresses as herein given.

18. This agreement and all rights under this agreement shall be construed in accordance with and under the terms of the laws of the State of Utah as the same now are or may hereafter be amended, and all disputes shall be settled in accordance with the laws of the State of Utah. The laws of the State of Utah permitting, it is agreed that in the event any dispute shall arise under this agreement, the same shall be settled by a board of arbitration consisting of three arbitrators, one of whom shall be selected by each party, and the third selected by the two first selected, and the decision of two of said arbitrators shall be binding and conclusive upon the parties hereto.

19. In the event that Blanding shall operate its mill on the leased premises for a total period of less than 180 days in any two consecutive calendar years, Vanadium, at its option, may enter upon the leased premises and mine and remove ore therefrom up to a total of six hundred (600) tons a month without any payment whatsoever to Bland-

Plaintiffs' Exhibit No. 157—(Continued)

ing therefor except such part of the development costs of Blanding, if any, as may properly be allowable to the ore so removed, and each such right of Vanadium shall continue until Blanding shall resume commercial operation of its mill.

20. Blanding shall not assign any part of its rights under this agreement to a third party, without written consent by Vanadium. Blanding shall not sublease any part of the leased premises to a third party, except for the purpose of mining ore for milling by Blanding on the leased premises, without written consent by Vanadium. Except as herein otherwise provided, this agreement shall extend to and be obligatory upon the successors and assigns of the respective parties hereto.

21. In the event that at any time Blanding shall cease to be controlled and managed by Fred A. Brinker, H. L. Bigler and Dan Milenski, or by one or more of them, or at least by one of them and the heirs of the others, then Vanadium shall have the right forthwith to cancel this agreement and thereby to terminate all rights of Blanding under the same, except only the same right to remove its property from the leased premises which is granted to Blanding in paragraph 7 of this agreement.

22. This agreement can be altered and changed only by instrument in writing subscribed by proper officers of the respective parties.

Plaintiffs' Exhibit No. 157—(Continued)

In Witness Whereof the parties hereto have executed this agreement as of the day and year first above written.

VANADIUM CORPORATION OF  
AMERICA,

/s/ By E. D. BRANSOME,  
President.

Attest:

/s/ P. J. GIBBONS,  
Secretary.

Address: 420 Lexington Ave., New York City.

BLANDING MINES COMPANY,

/s/ By H. L. BIGLER,  
President.

Attest:

/s/ DAN MILENSKI,  
Secretary.

Address: Box 188, Cortez, Colorado.

Appendix A

Net Profit of Blanding Mines Company from its operations under lease agreement with Vanadium Corporation of America, dated June . . . . 1942, Paragraph One shall be gross proceeds less costs of operation.

Costs of operation shall be calculated in accordance with standard mining, milling and processing practices and accounting, including labor, power and fuel, transportation, handling, supplies, depre-

Plaintiffs' Exhibit No. 157—(Continued)

ciation, and other usual and customary costs. Also taxes (including income and excess profit taxes).

Royalty payments made by Blanding to Vanadium Corporation of America in accordance with Paragraph One covering ore mined from the leased premises and milled thereon by Blanding shall be excluded as items of cost. All other royalty payments, however, whether made in accordance with Paragraphs One or Two, shall be included as items of cost.

Blanding is not to be required, for the purposes of cost calculations under such lease, to allocate any portion of its operating costs to low grade ore stored in stockpile.

Proceeds from any sales of Uranium Ore, or costs covering same, shall not be included in calculation of net profit.

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PLAINTIFFS' EXHIBIT No. 158

Mr. Daniel Milenski  
Cortez, Colorado

March 17, 1944

Dear Mr. Milenski:

Thank you for your wire, reading as follows:

"Retel unable to agree in writing with Sitton on deal and since we cannot we insist all officers of proposed organization be either Utah or Colorado residents as well as independent producers."

I must admit that I don't quite understand why you insist that all officers be either Utah or Colo-

Plaintiffs' Exhibit No. 158—(Continued)

rado residents, as well as independent producers.

For that matter, Mr. Sitton is eligible in both instances, whether you complete your private deal with him or not. Of course, I hope that you will be successful in your agreement with Mr. Sitton as well as with regards to the association.

Mr. Pleasants had a trial in court which delayed all his other work, but he promises to let us have the contract today or tomorrow. As soon as we receive it, it will be forwarded to you.

Needless to say, both matters, the Sitton deal and the formation of the association, are considered of equal importance by me.

Please keep me informed as to developments.

Very truly yours,

CONTINENTAL ORE COMPANY,  
HENRY J. LEIR.

hjl/se

Mr. Daniel Milenski

March 17, 1944

Contract.

Mr. Pleasant's messenger just delivered the contract. I have looked through it superficially, and send it along to you in order to avoid further delay.

According to Mr. Pleasant's advice over the phone to me, he inserted paragraph 10 as a protection for Continental which, in his opinion, is necessary if we now tie up with you completely.

Await your reaction.

CONTINENTAL ORE COMPANY.

PLAINTIFFS' EXHIBIT No. 160

[Penciled date: May 7, 1942.]

increase its contribution for the year 1942 to \$1,250.00. The President recommended that the Corporation contribute the sum of \$1,250.00 for this year. After discussion, the Committee, upon the recommendation of the President, approved of a subscription in the amount of \$1,250.00 to the National Industrial Information Committee for the year 1942.

The Secretary also presented to the Committee a letter from Mr. Robert C. Stanley, President of the International Nickel Company, Inc., requesting a contribution for the War Production Fund to Conserve Man Power, which is sponsored by the National Safety Council, Inc. The President recommended that the Committee approve of a contribution in the amount of \$1,500.00. On motion regularly moved, seconded and unanimously carried, the Committee approved a contribution to the War Production Fund to Conserve Man Power, in the amount of \$1,500.00 as recommended by the President.

The President reported the Corporation had entered into an agreement to acquire vanadium ore property in Blanding, Utah. He stated such agreement contemplated royalty payments of five cents (\$0.05) per lb. of contained V<sub>2</sub>O<sub>5</sub> in ore produced, with an advance royalty payment of \$20,000.00 at time agreement was consummated. He stated it was



Plaintiffs' Exhibit No. 160—(Continued)

planned to treat the ore mined from this property in the plant now under construction at Monticello, Utah.

There being no further business, after a general discussion of the affairs of the Corporation, on motion regularly moved, seconded and carried, the meeting thereupon adjourned.

P. J. GIBBONS,  
Secretary.

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PLAINTIFFS' EXHIBIT No. 162

Electro Metallurgical Sales Corporation  
Export Department  
30 East Forty-Second Street  
New York, N. Y., U.S.A.

November 3rd, 1939

Vanadium Corporation of America  
420 Lexington Avenue  
New York, N. Y.

Attention: Mr. P. J. Gibbons,  
Secretary and Treasurer

Gentlemen:

As per our telephone conversation of today, we now have available the second consignment of Fused Vanadium Oxide for France.

Plaintiffs' Exhibit No. 162—(Continued)

The gross weight of the consignment is 53,830 pounds, or 51,585 pounds of Fused Vanadium Oxide net, which is equivalent to 44,999.54 pounds of Vanadium Pentoxide. This, at a value of \$1.30 per pound of Contained  $V_2O_5$  equals \$58,499.40. Adding to this the marine freight, consular fees, consular blanks, and marine insurance charges, we arrive at a c.i.f. LeHavre value of \$59,463.20.

As we understand the freight rate is to be increased on November 13th we suggest that you urge them to cable their credits promptly, enabling booking of the shipment prior to that date; otherwise, their credits must be increased.

Very truly yours,

ELECTRO METALLURGICAL  
SALES CORPORATION,

J. F. WIDMAN,

Export Department.

JFW:LMH

[Pen Note:] Gross V.C.A., 52,788#; Alloy, 49,680#; Cont'd., 45,000  $V_2O_5$ ; Value \$58,501; Frt. \$686; Ins. \$300 (Est.); Total \$59,487. H. B. 11/9/39.

DEFENDANT U'S EXHIBIT "B"

Metals Reserve Company  
Washington, D. C.

Feb. 25, 1942

U. S. Vanadium Corporation  
30 East 42d Street  
New York, New York

Re: Vanadium Agency Agreement

Gentlemen:

In accordance with the recommendation of the War Production Board, we wish to proceed with the program for increasing the supply of vanadium urgently needed for war requirements, by producing vanadium from the non-commercial "lead vanadate" properties of the southwest with which you are familiar.

Accordingly, we hereby appoint you our Agent, subject to cancellation in our sole discretion upon one month's notice, to carry out this program on the terms set forth below:

1. Investigation. You will immediately submit to us a statement setting forth the steps you propose to take to investigate the known lead vanadate prospects of the southwest from which vanadium may be produced, and the estimated cost of such investigation. Upon our approval of such statement, you will proceed with such investigation to determine the most desirable properties to develop, and submit your findings and recommendations to us from time to time.

Defendant U's Exhibit "B"—(Continued)

2. Development and Production. You will purchase concentrates from third parties required for the program, in such quantities and on such terms recommended by you and approved by us. You will recommend, for our approval, plans and designs for the development, equipment and operation of a particular property in its entirety or covering certain stages thereof from time to time; such recommendation to specify as far as practicable the equipment and facilities, the leases, the contracts and the purchases involved, and estimated costs thereof. Upon our written approval of the development of a particular property, you will take all the necessary steps, as recommended, to develop and equip the property, mine and mill the ore, have the concentrates smelted and refined, and to act as our selling and shipping Agent in disposing of the vanadium and other materials purchased or produced. In carrying out this work, you may enter into such contracts and leases, and purchase such property equipment and supplies as you deem advisable in our name, as our Agent, provided you obtain our prior approval for all leases covering properties to be developed and for particular contracts or purchases involving a dollar amount exceeding the amount we specify from time to time for this purpose.

3. Procedure. All property, equipment and supplies will be purchased and all materials produced will be held in our name by you, as our Agent. Each

## Defendant U's Exhibit "B"—(Continued)

item of major equipment will be marked to indicate our ownership thereof and will be subject to removal from the real estate. Documents of title and ownership will be held by you in safe keeping for us and copies thereof filed with us. We are exempt from all taxation except local taxes on real estate owned by us. Accordingly, you will advise us of the imposition of any taxes. You will also carry such insurance on the properties and operations as we specify. Your representatives and employees will not be employees of this Company for any purpose. You will use your best efforts to perform all phases of the undertaking and to maintain costs at a minimum, and will report to us periodically upon our request the results of development and operations. You will use reasonable care in the use and custody of property and materials with appropriate inventory and ownership records. You will comply with all applicable Federal, State and municipal laws and regulations. We shall have the right at all times to send our representatives to examine the properties and operations and your books and payroll and inventory and other records, which shall be maintained entirely separate from your other operations.

4. Costs and Reimbursement. We have limited our allocation for all costs covered by this letter to \$300,000 until the success of the program has been demonstrated by actual operations, and in making your recommendations this should be taken into

Defendant U's Exhibit "B"—(Continued)

consideration. We will pay or reimburse you from time to time for all expenses paid in connection with the investigation and reports provided for in paragraph numbered 1 above, up to a maximum of \$30,000, upon receipt of your requisition therefor itemizing the expenditures and certifying as to the necessity and reasonableness thereof and that payment has been made therefor, and accompanied by receipted bills or evidence of payment. We agree to pay or reimburse you for all expenditures in acquiring, leasing, developing, equipping and operating the properties and in having vanadium and the other recoverable materials produced, transported and sold. For this purpose you will submit for our approval a budget, estimating the expenditures to be made in each three-month period, and we will establish a revolving fund in your favor for the payment of such expenses in a national bank designated by us. The revolving fund will be replenished from time to time upon receipt of your requisition therefor, itemizing prior expenditures and certifying as to the necessity and reasonableness thereof and that payment has been made therefor, and accompanied by receipted bills or evidence of payment. You will maintain a complete record of all expenditures and account to us therefor quarterly, or upon our request, by summarizing the payments covered by requisitions theretofore submitted together with transcript of the monthly bank statements and cancelled checks to be returned to you after audit, or, in lieu of accounting to us as afore-

## Defendant U's Exhibit "B"—(Continued)

said, we may, at our option, audit your books and records at your offices. In addition to approving the aforesaid budget, we retain the right to require our prior approval for, or to pay directly, any particular expenditures or types of expenditures of which we advise you from time to time. It is further understood that the construction of any particular mill or plant, the cost of which exceeds \$100,000, will be handled through Defense Plant Corporation, an RFC subsidiary.

5. Term and Compensation. For acting as our Agent hereunder, we will pay you a fixed fee of \$1,000 per month, fractions pro rata, commencing with the day on which we authorize you to proceed with the investigation provided for in paragraph numbered 1 above. In consideration of this fee and our appointing you our Agent, you agree to act as our Agent hereunder for a period of four years from the date hereof or until the operations covered by this letter are fully liquidated, whichever date is the earlier; provided, however, that you shall have the right to terminate your employment as Agent hereunder on three months' written notice.

6. Indemnity. We agree to protect, indemnify and save you harmless from and against all claims and demands made against you and all judgments, loss or damages incurred by you in the performance of this agency within the authority granted, which are not the result of your negligence or intentional misconduct.

Defendant U's Exhibit "B"—(Continued)

If the foregoing is acceptable to you, please sign and return the enclosed duplicate original of this letter, to constitute the agreement between us as of the date hereof.

Very truly yours,

METALS RESERVE COMPANY,  
/s/ By G. TEMPLE BRIDGMAN,  
Executive Vice President.

Accepted and Agreed to:

U. S. VANADIUM CORPORATION,  
/s/ By J. R. VAN FLEET,  
Vice President.

---

DEFENDANT U'S EXHIBIT "C"

Metals Reserve Company  
Washington, D. C.

April 9, 1942

United States Vanadium Corporation  
30 East 42d Street  
New York, New York

Re: Agency Agreement—Sandstone Vanadium—  
Durango Project

Gentlemen:

In accordance with the recommendation of the War Production Board, we wish to proceed with the program for increasing the supply of vanadium



Defendant U's Exhibit "C"—(Continued)

urgently needed for war requirements, by producing vanadium from the non-commercial "sandstone ore" properties of the southwest with which you are familiar.

In your letter of March 18, 1942, you inform us of several possible locations for vanadium reduction plants in the southwest. With the exception of a proposed plant at Durango, Colorado, it is our understanding that each plant would cost in excess of \$100,000, and would, therefore, be handled as a Defense Plant Corporation project if and when approved.

As the Durango plant will not cost in excess of \$100,000, we are writing this letter to authorize you to proceed on terms similar to the Vanadium Agency Agreement of February 25, 1942, covering the lead-vanadate properties. The Durango plant and any other plants approved by and constructed for Defense Plant Corporation, will be operated by you at the expense and under the direction of this Company, under a single operating agreement to be entered into hereafter between your Company and this Company.

To enable you to proceed immediately with the vanadium reduction plant at Durango, Colorado, we hereby appoint you our agent, subject to cancellation by us upon three months' notice and subject to cancellation by you upon three months' notice, on the terms set forth below:

1. Acquisition and Rehabilitation of Plant. You

Defendant U's Exhibit "C"—(Continued)

will, as soon as possible, purchase or lease, in our name, the plant site, acquire and rehabilitate the necessary buildings, equipment and facilities for a reduction plant with a capacity of 100 tons of ore per day; it being contemplated that the plant will be completed within three months from the date hereof. As to the site of the plant, whether fee or leasehold, your attorneys will obtain title opinion satisfactory to us. If the site is obtained by leasehold, the lease will be subject to our approval and will provide that the lessee shall have the right to remove all buildings, equipment and facilities at any time.

You will recommend, for our approval, plans and designs for the rehabilitation and equipment of the plant; such recommendation to specify as far as practicable the equipment and facilities, the contracts and the purchases involved, and the estimated cost thereof. Upon our written approval of such plans and designs, you will take all the necessary steps, as recommended, to complete the plant for operations as soon as possible. In carrying out this work you may enter into such contracts and purchase such property, equipment and supplies as you deem advisable, in our name, as our Agent, provided you obtain our prior approval with respect to particular contracts or purchases involving a dollar amount exceeding the amount we specify from time to time for this purpose.

2. Procedure. All property, equipment and sup-

## Defendant U's Exhibit "C"—(Continued)

plies will be purchased, and all materials produced will be held in our name by you, as our Agent. Each item of major equipment will be marked to indicate our ownership thereof and will be subject to removal from the real estate. Documents of title and ownership will be held by you in safe keeping for us, and copies thereof filed with us. We are exempt from all taxation except local taxes on real estate owned by us. Accordingly, you will advise us of the imposition of any taxes. You will also carry such insurance on the properties as we approve. Your representatives and employees will not be employees of this Company for any purpose. You will use your best efforts to perform all phases of the undertaking and to maintain costs at a minimum, and will report to us periodically upon request as to the status of the project. You will use reasonable care in the use and custody of property and materials with appropriate records. You will comply with all applicable Federal, State and municipal laws and regulations. We shall have the right at all times to send our representatives to examine the properties and work and your books and payroll and other records at the plant, which shall be maintained entirely separate from your other operations.

3. Costs and Reimbursement. We have limited our allocation hereunder for all costs for the Durango plant, prior to operations, to \$100,000. Subject to this limitation, we agree to pay or reim-

Defendant U's Exhibit "C"—(Continued)

burse you for all expenditures in acquiring, leasing, developing and equipping the above property and plant at Durango, Colorado. For this purpose you will submit, for our approval, a budget from time to time, estimating the expenditures to be made, and we will establish a revolving fund in your favor for the payment of such expenses in a national bank designated by us. The revolving fund will be replenished from time to time upon receipt of your requisition therefor, itemizing prior expenditures and certifying as to the necessity and reasonableness thereof and that payment has been made therefor, and accompanied by receipted bills or evidence of payment. You will maintain a complete record of all expenditures and account to us therefor quarterly, or upon our request, by summarizing the payments covered by requisitions theretofore submitted together with transcript of the monthly bank statement and cancelled checks to be returned to you after audit, or, in lieu of accounting to us as aforesaid, we may, at our option, audit your books and records at the plant pertaining to this operation. In addition to approving the aforesaid budget, we retain the right to require our prior approval for, or to pay directly, any particular expenditure or types of expenditures of which we advise you from time to time.

4. Operation. You agree to operate the aforesaid plant at Durango under an operating agreement to be entered into hereafter.

Defendant U's Exhibit "C"—(Continued)

5. Indemnity. We agree to protect, indemnify and save you harmless from and against all claims and demands made against you and all judgments, loss or damages incurred by you in the performance of this agency within the authority granted, which are not the result of your negligence or intentional misconduct.

6. Congressional Clause. No Member of or Delegate to the Congress of the United States shall be admitted to any share or part of this Contract, or to any benefit arising therefrom, but this provision shall not be construed to extend to this contract if made with a Corporation for its general benefit.

If the foregoing is acceptable to you, please sign and return the enclosed duplicate original of this letter, to constitute the agreement between us as of the date hereof.

Very truly yours,

METALS RESERVE COMPANY,

/s/ By G. TEMPLE BRIDGMAN,

Executive Vice President.

Accepted and Agreed to:

UNITED STATES VANADIUM  
CORPORATION,

/s/ By J. R. VAN FLEET,

Vice-President.

DEFENDANT U'S EXHIBIT "D"

Vanadium Agency Agreement

This Agreement made and entered into as of the 9th day of May, 1942, by and between Metals Reserve Company, a corporation duly created by Reconstruction Finance Corporation pursuant to section 5d of the Reconstruction Finance Corporation Act, as amended, with its principal office at Washington, D. C. (hereinafter called "Metals"), and United States Vanadium Corporation, a corporation created under the laws of the State of Delaware, having an office at Number 30 East 42d Street, New York, New York (hereinafter called "Vanadium"),

Witnesseth:

That Whereas, the increased domestic production of vanadium and its ore concentrates and the expansion of facilities within the United States for such production are necessary to the national defense and to successful prosecution of the war effort of the United States; and

Whereas, in accordance with the recommendation of the War Production Board, an agreement dated April 9, 1942, has been entered into between Metals and Vanadium for the construction of such facilities in the vicinity of Durango, Colorado, to cost not in excess of One Hundred Thousand Dollars (\$100,000) and to have a capacity for the treatment of approximately one hundred (100) tons of vanadium ores per day in the production of vanadium

Defendant U's Exhibit "D"—(Continued)

ore concentrates (said facilities being hereinafter called the "Durango Plant"); and

Whereas, in accordance with the recommendation of the War Production Board, it is contemplated that additional facilities estimated to cost approximately Four Hundred Thousand Dollars (\$400,000) will be constructed as hereinafter mentioned in the vicinity of Grand Junction, Colorado, to have a capacity for the treatment of approximately one hundred (100) tons of vanadium ores per day in the production of vanadium ore concentrates (said facilities being hereinafter called the "Grand Junction Plant"); and

Whereas, Vanadium has had extensive experience in the treatment of vanadium ores for the production of vanadium concentrates and now owns and operates vanadium ore treatment plants similar to those proposed with regard to the Durango Plant and the Grand Junction Plant (the Durango Plant and the Grand Junction Plant being hereinafter collectively called the "Plants");

Now, Therefore, in consideration of the mutual covenants herein contained, Metals hereby appoints Vanadium as its agent, and Vanadium hereby accepts such appointment, to carry out the purposes hereinafter set forth on the terms and conditions following:

1. Construction of Grand Junction Plant.

Vanadium shall carry on investigation and preliminary engineering and design work needed for



Defendant U's Exhibit "D"—(Continued)

the construction of the Grand Junction Plant, it being contemplated that Defense Plant Corporation, Washington, D. C., will provide the necessary funds to construct the Grand Junction Plant, that title to the Grand Junction Plant will be vested in Defense Plant Corporation and that the Grand Junction Plant will be leased by Defense Plant Corporation to Vanadium. The terms on which such funds will be provided (including the terms of an option to purchase, if any) are subject to negotiation between Vanadium, Metals and Defense Plant Corporation.

2. Operation of Plants and Purchase of Ores.

Vanadium shall operate the Plants for Metals' account. Metals will have, at its option, representatives at the Plants who will act independently in sampling all shipments and have sole custody of all control samples. Vanadium shall exert its best efforts to purchase for Metals' account vanadium ores suitable for treatment in the Plants, at reasonable prices not to exceed fifty cents (50c) per pound of vanadium pentoxide contained, delivered at suitable loading points or ore receiving stations, unless Metals shall hereafter authorize the payment of prices for such ores in excess of said fifty cents (50c) per pound. Vanadium will also, upon written request of Metals, act as agent for Metals in selling or otherwise disposing of, and in shipping, the production of the Plants. Detailed instructions covering sales will be forwarded to Vanadium at a



Defendant U's Exhibit "D"—(Continued)

later date. Employees of Vanadium will not be employees of Metals for any purposes hereunder.

3. Processes and Patents.

Vanadium will make available for use in the operation of the Plants by it, without charge except as herein provided, all processes and patent rights owned by or available to it, relating to the treatment of vanadium ores and plant products, and it will also make available for use in the operation of the Plants, or either of them, during such period as same may be owned or operated by others, all such processes and patent rights at such reasonable charge as may be mutually agreed upon.

4. Costs and Reimbursements

Metals will pay or reimburse Vanadium from time to time for all costs and expenses incurred by Vanadium in carrying on the investigation and preliminary engineering and design work provided for in Section 1 of this agreement (but not in excess of a total of Ten Thousand Dollars (\$10,000)), and for all costs and expenses incurred and paid by Vanadium in the occupancy, maintenance, repair, management and operation of the Plants, the purchase, handling and transportation of ores and plant products and the performance of its other duties hereunder, save as is hereinafter otherwise expressly provided, and for this purpose Metals will establish a revolving fund in favor of Vanadium in a bank or banks designated by Metals. Such costs and expenses, shall include, but without limitation, all

**Defendant U's Exhibit "D"—(Continued)**

costs and expenses of labor (as hereinafter outlined in more detail), materials, supplies, taxes (except income and excess profits taxes and taxes based upon income or profits), bonds, insurance, power, water, steam and other services, testing, accounting, training of personnel for the operation of the Plants, and traveling, and shall also include all costs and expenses which Vanadium may properly incur and pay under the provisions of the proposed construction and lease contract, when entered into, between Defense Plant Corporation and Vanadium with respect to the Grand Junction Plant and for which Vanadium will not be reimbursed by Defense Plant Corporation under said construction and lease contract. Costs and expenses of labor as hereinabove used shall include, but without limitation, all salaries and wages whether full-time or part-time, and including compensation for overtime, for work performed at the Plants or elsewhere, both in connection with preparations necessary for the operation of the Plants and in connection with the management, operation, occupancy, repair and maintenance of the Plants; all salaries and fees for services for technical, consultant-engineering, or other professional experts, whether performed on or off the Plant sites, or whether on a full-time or part-time basis; all extra compensation paid to employees engaged in operation of the Plants and all discontinuance wages paid to such employees; the amount directly chargeable to Vanadium for all group insurance, retirement income plan, and all other wel-

## Defendant U's Exhibit "D"—(Continued)

fare and employee-relation plans maintained by Vanadium for the benefit of employees engaged in the operation of the Plants; and an equitably proportionate share, in connection with the operation of the Plants, of Vanadium's cost of all welfare and other employee-relation plans maintained by it for the benefit of its employees generally. The salaries of Vanadium's executive officers, fees of its attorneys, expenses in conducting its offices and other overhead expenses of Vanadium (except offices which may be established at or near the Plants for the purposes of this agreement) shall not be so included, except that it is agreed that direct expenses of officers and employees of Vanadium in connection with the operations hereunder shall be paid by Metals to the extent approved by Metals. The revolving fund will be replenished from time to time upon receipt of requisition from Vanadium therefor itemizing prior expenditures and certifying as to the necessity and reasonableness thereof and that payment has been made therefor, accompanied by receipted bills or evidence of payment. Vanadium will maintain a complete record of all expenditures and will account to Metals therefor quarterly, or oftener at Metals' request, by statements summarizing the payments covered by requisitions theretofore submitted, such statements to be accompanied by transcripts of the monthly bank statements and cancelled checks, to be returned to Vanadium after audit, or, in lieu of accounting to Metals in this manner, Metals may, at its option, audit at the

Defendant U's Exhibit "D"—(Continued)

Plants Vanadium's books and records pertaining to the operation of the Plants, the purchase of ores, and the other performance of this agreement. Metals is to have access to the Plants and all records pertaining thereto at any time. If requested by Metals, Vanadium will submit for Metals' approval, thirty (30) days before the beginning of each quarterly period, a budget of estimated expenditures for the operation of the Plants during such period, and no substantial expenditures for operation of the Plants not shown on such budget shall be made without the written approval of Metals. Quarterly expenditures for plant operation and the purchase of vanadium ores will be limited to Two Hundred Thousand Dollars (\$200,000) and Seven Hundred Fifty Thousand Dollars (\$750,000), respectively.

5. Compensation and Indemnity.

As full compensation for services rendered by Vanadium as agent for Metals hereunder, Metals will pay Vanadium a fee of three cents (3c) per pound of vanadium pentoxide ( $V_2O_5$ ) contained in vanadium concentrates produced through the operation of the Plants, but in any event not less than Twenty-four Thousand Dollars (\$24,000) for each year of the period of this agreement beginning with the date upon which the Plants, or either of them, have been made ready for operation. Metals agrees to protect, indemnify and save Vanadium harmless from and against all claims and demands made against it and all judgments, losses or damages suf-

## Defendant U's Exhibit "D"—(Continued)

ferred or incurred by it in the performance of this agency within the authority granted, which are not the result of Vanadium's negligence or intentional misconduct.

## 6. Advances and Deliveries.

In the event that any vanadium mines or prospects are found to require assistance in providing roads, transportation facilities, mining equipment, development, and working capital, then in each such case Vanadium shall furnish to Metals its written report on the requirements of such mine or prospect, together with its specific recommendations thereon. If Metals approve in writing the granting of the proposed advance or assistance in such a case, then Vanadium shall provide the same out of the revolving fund to be established hereunder by Metals, and Vanadium shall obtain and hold for Metals such evidence of and security for the advance as Metals may require and shall comply with all other requirements of Metals. In each such case of advance, the amount of the advance shall be deducted by Vanadium from the price of any ore produced by such mine or prospect upon Vanadium's subsequent purchase thereof, pursuant to Metals' instructions; but if in any such case the value of ore so produced be insufficient to repay such advance, wholly or partially, then, to the extent of such insufficiency, such advance shall be deemed to have been made for Metals' account insofar as Vanadium is concerned. Vanadium shall maintain rec-

Defendant U's Exhibit "D"—(Continued)

ords of all such advances made and of the amounts repaid thereon and shall render to Metals such reports concerning such advances and repayments as Metals may require.

7. Discharge of Duties.

Vanadium will carry on the operations in a good and efficient manner in accordance with accepted practices and all operations shall be carried on in a systematic, orderly and economic manner and in compliance with all applicable laws, rules, regulations and orders. It is impossible to detail all the various acts which Vanadium will or may be called upon to perform in discharging its duties herein, and in consequence, but without derogating from the authority hereinabove granted, Vanadium will do all such things as are reasonably necessary and proper in order to discharge its duties hereinabove set out in the course of acting for Metals.

8. Right to Purchase.

Upon the termination of this Agreement Vanadium shall have and is hereby granted for a period of ninety (90) days after such termination (hereinafter referred to as the "option period") the right and option by written notice to Metals to purchase the buildings, equipment and machinery constituting the Durango Plant at the actual cost to Metals thereof, less an amount representing depreciation, obsolescence and loss of value due to use for national defense purposes for each year or fractional part thereof, at the rate of twelve and one-half per cent (12%) of such actual cost per annum; pro-

## Defendant U's Exhibit "D"—(Continued)

vided that in no event shall Vanadium have the right hereunder to purchase the Durango Plant at a price less than 25% of the actual cost of said plant to Metals. Metals further agrees to the extent that it lawfully may that it will not sell or convey said buildings, equipment and machinery or any part thereof to any party or parties other than another branch of the Government (which branch of the Government shall be bound by the provisions hereof) for a period of ninety (90) days following the expiration of the option period unless Metals shall first have offered the same for sale to Vanadium at a price equal to the best offer received by Metals and Vanadium shall have failed or refused to purchase the same within thirty (30) days after the receipt of such offer.

## 9. Congressional Clause.

No member of or delegate to the Congress of the United States shall be admitted to any share or part of this contract, or to any benefit arising therefrom, but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

## 10. Force Majeure.

Neither Metals nor Vanadium shall be responsible for delays, failure or omissions due to any cause or causes beyond its control, however arising, and which cannot be overcome by due diligence. Upon the cessation or rectification of the cause or causes of delay of performance hereunder, the time for such performance shall be extended by the num-



Defendant U's Exhibit "D"—(Continued)

ber of days during which performance was so delayed.

11. Term.

This agreement shall continue in effect from the date hereof and until termination of the existing national emergency and six months thereafter, but either party hereto may at its option terminate this agreement at any time by giving to the other party three (3) months' written notice of such termination.

In Witness Whereof, the parties hereto have caused this agreement to be executed by their respective corporate officers thereunto duly authorized and their respective corporate seals to be hereunto affixed as of the day and year first above written.

[Seal] METALS RESERVE COMPANY,  
/s/ By G. TEMPLE BRIDGMAN,  
Executive Vice President.

Attest:

/s/ (Illegible),  
Secretary.

[Seal] UNITED STATES VANADIUM  
CORPORATION,  
/s/ By F. P. Gormely,  
Vice President.

Attest:

/s/ (Illegible),  
Secretary.



Defendant U's Exhibit "D"—(Continued)

Resolution

Whereas, This Corporation has been authorized to produce, acquire, carry, sell, or otherwise deal in vanadium metal; and

Whereas, upon recommendation of the War Production Board, this Corporation, has entered into an agreement, dated April 9, 1942, with United States Vanadium Corporation for the construction, in the vicinity of Durango, Colorado, of a plant and facilities for the production of vanadium and its ore concentrates; and

Whereas, it is contemplated that Defense Plant Corporation will finance the construction of an additional plant and facilities for the production of vanadium and its ore concentrates in the vicinity of Grand Junction, Colorado; and

Whereas, upon recommendation of the War Production Board, this Corporation and United States Vanadium Corporation desire to enter into a contract under which United States Vanadium Corporation will operate the said Durango and Grand Junction plants and facilities as the agent of this Corporation and for its account;

Now, Therefore, Be It Resolved:

First, That this Corporation enter into the "Vanadium Agency Agreement," dated as of the 9th day of May, 1942, with United States Vanadium Corporation, in the form attached hereto.

Second, That the President, or a Vice President, of this Corporation be and he is hereby authorized

Defendant U's Exhibit "D"—(Continued)

and directed to execute and deliver the aforesaid Agreement in the name and on behalf of this Corporation, under its corporate seal, attested by its Secretary or its Assistant Secretary.

Third, That the appropriate officers of this Corporation be and they are hereby authorized and directed, upon the execution of the aforesaid Agreement by the parties thereto and upon effective delivery thereof, to take all action necessary or appropriate to carry out the aforesaid Agreement.

The foregoing resolution was duly adopted by the Executive Committee of Metals Reserve Company on May 16, 1942.

[Seal] METALS RESERVE COMPANY,  
/s/ (Illegible),  
Secretary.

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DEFENDANT U'S EXHIBIT "I"

October 22, 1942

Mr. H. DeWitt Smith  
Metals Reserve Company  
Lafayette Building  
Washington, D. C.

Approval Requested

Dear Mr. Smith:

Reference is here made to my letter of October 13, 1942, recommending the Metals Reserve Company Ore Milling Contract for concentrating Met-

Defendant U's Exhibit "I"—(Continued)

als Reserve Company sandstone Vanadium ores by Nisley and Wilson, as well as, an effort to arrange to place the Calamity District mines into production.

At this time, a third party, a mine operator, has been interested, and he has agreed to produce Vanadium ore from the Calamity mines upon receipt of a Trustee (Gateway Alloys, Inc., petition for bankruptcy) Lease on the mines. The Trustee and all interested parties in the bankruptcy proceedings have agreed to grant a mining lease that stipulates that the Metals Reserve Company shall purchase all Vanadium ores from the Lessor and pay to a Trustee's escrow account, \$.08 per pound  $V_2O_5$  contained, royalty, on all ores mined thereof.

I consider the above royalty, under the present circumstances, reasonable and just, and I recommend the same.

The Lessor will simultaneously sign a Metals Reserve Company Ore Purchase Agreement at the following basic prices:

For ore having a  $V_2O_5$  content of 1.25%, 26c per pound.

For ore having a  $V_2O_5$  content of 1.50%, 28c per pound.

For ore having a  $V_2O_5$  content of 1.75%, 29c per pound.

For ore having a  $V_2O_5$  content of 2.00%, 30c per pound.

Defendant U's Exhibit "I"—(Continued)

For ore having a  $V_2O_5$  content of 2.50%, 32c per pound.

I recommend the above schedule; it is similar in every respect to our ore prices in other parts of the Vanadium area.

The operation of these mines will create a source of supply of Vanadium ore for the Nisley-Wilson Mill for which a contract has been requested from the Metals Reserve Company as of my letter of October 13, 1942, as well as an excess of lower grade ores for the Grand Junction Plant.

The estimated cost of ore delivered at the Nisley-Wilson Mill will be \$.48 per pound  $V_2O_5$  contained for 2.00% ore. Similar ore will cost \$.53 per pound  $V_2O_5$  contained at Grand Junction.

Now, therefore, your approval is requested for the consummation of these Agreements because you have already had several requests through the efforts of Mr. H. L. Gardner, an interested party with the Gateway Alloys, Inc. The above Agreements will clear the way in untangling a hitherto unworkable litigation by mutual agreement of all parties and place the well-mineralized Calamity area into production.

The United States Vanadium Corporation, Agent for Metals Reserve Company, will proceed with the installation of a Vanadium ore sampling plant, designed as recommended by Mr. Howland Bancroft,

2384     *Continental Ore Company, et al., vs.*

Defendant U's Exhibit "I"—(Continued)

at Gateway, Colorado, at an estimated cost of \$3250.00. It will be necessary to rent a plant site that will cost \$15.00 per month.

Very truly yours,

UNITED STATES VANADIUM CORPORATION,  
AGENT FOR METALS RESERVE  
COMPANY,

/s/ J. W. HILL,

John W. Hill, Supervising Engineer.

JWH: pf

cc: Mr. J. R. Van Fleet  
30 East Forty-second Street  
New York, N. Y.

Mr. Blair Burwell  
30 East Forty-second Street  
New York, N. Y.

Mr. W. G. Haldane  
30 East Forty-second Street  
New York, N. Y.

**DEFENDANT U'S EXHIBIT "J"**

**Metals Reserve Company**

**Washington, D. C.**

**Nov. 19, 1942**

**United States Vanadium Corporation**

**30 East 42nd Street**

**New York, New York**

**Attention: Mr. J. R. Van Fleet, Vice President**

**Gentlemen:**

Reference is made to letter dated October 22, 1942 to Mr. H. DeWitt Smith from your Mr. John W. Hill, Supervising Engineer at Grand Junction, Colorado, requesting approval of the making of an agreement by your Corporation, as Agent for this Company under the Vanadium Agency Agreement dated as of May 9, 1942 between us, with the lessee of the Calamity District mines, covering the purchase of vanadium ores produced by the lessee from these mines.

We approve Mr. Hill's recommendations, and authorize you to enter into a purchase agreement with the above lessee for the purchase of ore produced from the above mines by the lessee, at the base prices stated in Mr. Hill's letter. As recommended by Mr. Hill, and in addition to the base prices to be paid to the lessee, the purchase agreement should provide for the payment directly to the lessor, the Trustee in Bankruptcy for Gateway Alloys, Inc., of a royalty of 8c per pound of vanadium pentoxide ( $V_2O_5$ ) contained in ore purchased

Defendant U's Exhibit "J"—(Continued)

thereunder. The purchase agreement should also give you the option to cancel at any time after January 1, 1944. In addition to such other provisions as you may deem appropriate under the circumstances, the purchase agreement should incorporate the standard provisions contained in all Metals Reserve Company purchase contracts, which are enclosed herewith in the form of, and for use as, an exhibit to the purchase agreement and other purchase contracts entered into by you, as Agent for this Company.

As a condition to your entering into the above purchase agreement, your counsel should, of course, be satisfied that the above-mentioned lease is valid and binding upon the parties, and entitles the lessee to mine vanadium ore from the Calamity District mines.

Sincerely yours,

G. TEMPLE BRIDGMAN,  
Executive Vice President.

cc: Mr. John W. Hill  
Supervising Engineer  
U. S. Vanadium Corporation  
Grand Junction, Colorado

Mr. Blair Burwell  
30 East 42nd Street  
New York, New York

DEFENDANT U'S EXHIBIT "K"

Metals Reserve Company  
Washington, D. C.

Nov. 25, 1942

United States Vanadium Corporation  
30 East 42nd Street  
New York, New York

Attention: Mr. J. R. Van Fleet, Vice President

Gentlemen:

In accordance with Paragraph 2 of the Vanadium Agency Agreement dated as of May 9, 1942, as amended, between your Corporation and this Company, the Gateway Colorado vanadium ore treatment plant formerly owned by Gateway Alloys, Inc. and presently being operated by Messrs. Frank Nisley and Hays C. Wilson under lease from H. I. Gardner, is hereby designated as one of the vanadium ore treatment plants to be supplied with vanadium ore purchased by you under said Agency Agreement.

The terms upon which you are to furnish ore for the operation of the Gateway plant were agreed upon at a conference in Denver, Colorado, on October 8, 1942, attended by Messrs. H. I. Gardner, Frank Nisley, Blair Burwell (representing your Corporation) and O. R. Whitaker (representing Metals Reserve Company). We have incorporated these terms in a proposed Toll Agreement between your Corporation, as Agent for this Company, and Messrs. Nisley and Wilson, eight copies of which



## Defendant U's Exhibit "K"—(Continued)

are enclosed herewith. If this agreement as enclosed is acceptable to you and Messrs. Nisley and Wilson, we authorize you, as Agent for this Company, to execute it, provided your counsel is satisfied that the lease under which Messrs. Nisley and Wilson are operating the Gateway plant is valid and binding upon the parties thereto. We have obtained a copy of this lease, together with other related documents, from counsel for Messrs. Nisley and Wilson, and these documents, together with a copy of the accompanying letter of their counsel, are enclosed herewith.

The enclosed Agreement provides in substance that for a period of ninety (90) days your Corporation, as Agent, will supply vanadium ore for the operation of the Gateway plant, that such ore will be treated at said plant in consideration of the treatment charges specified in the Agreement, and that all fused vanadium oxide, together with all tailings, produced from such ore will be returned to you, as Agent, at the Gateway plant. The Agreement has been prepared upon the basis of a term of ninety (90) days from the date of its execution, it being contemplated that operation of the plant during this period will furnish a basis for a subsequent agreement. Accordingly, during the term of the enclosed Agreement, you should request and obtain from Messrs. Nisley and Wilson such complete information as to costs of operation, etc. as may be necessary for this purpose.

Defendant U's Exhibit "K"—(Continued)

You will act as shipping agent for this Company, arranging for the shipment of vanadium oxide and tailings returned to you by Messrs. Nisley and Wilson to consignees designated by us, and following our written instructions as to means of transportation, routing and forwarding bills of lading, invoices and other related documents.

Upon execution of the enclosed Agreement by your Corporation, as Agent, and Messrs. Nisley and Wilson, please return to us for our files one executed original counterpart.

Sincerely yours,

METALS RESERVE COMPANY,  
/s/ G. TEMPLE BRIDGMAN,  
G. Temple Bridgman,  
Executive Vice President.

Enclosures

cc: Messrs. Nisley & Wilson  
Grand Junction, Colorado  
Mr. Blair Burwell  
30 East 42nd Street  
New York, New York  
Mr. O. R. Whitaker  
932 Equitable Building  
Denver, Colorado  
J. W. Hill  
Grand Junction

U.S. DIST. CT. N.D. CAL.  
No. 29008  
FILED JUN - 4 1958  
BY *J. R. [Signature]*  
DEPUTY CLERK

**ION** (48)7

EL - [unclear]
MT - [unclear]
LT - [unclear]
MLT - [unclear]
Day [unclear]

JOHN CARLTON  
PRESIDENT OF THE BOARD

NBM216 77 5 EXTRA XC=GRANDJUNCTION COLO (7) 1127A  
HARRY K MASTERS, CARE MOLYBDENUM CORPN OF AMERICA=  
500 FIFTH AVE=

OPERATION OF GATEWAY ALLOYS PLANT US NOW SHUT DOWN PER  
MOLYBDENUM CORPORATION AGREEMENT OF LEASE REFERRED TO IN  
LETTER DECEMBER 12 AND YOUR REPLY DECEMBER 21 STOP  
VERY MUCH APPRECIATE YOUR FINAL APPROVAL WHICH I UNDERSTAND  
DEPENDS UPON YOUR CONSEL JAMES S CRAWFORD STOP  
WOULD YOU PLEASE WIRE MR J. W. HILL, GRANDJUNCTION, COLO  
GATEWAY ALLOYS TRUSTEES CAN PROCEED WITH DELIVERY OF  
AND START PLANT OPERATIONS. REGARDS=

BLAIR RUTWELL UNITED STATES VANADIUM CORPN  
AGENT FOR METALS RESERVE CO

*show 1/7/58 Crawford 3-5 m  
Crawford will wire Hill that agreement  
approved for him it does not effect  
have under the original contract of the  
in case Hill falls down*

DEFENDANT U'S EXHIBIT "O"

Inter-Company Correspondence

Company: United States Vanadium Corp.

Location: New York City.

Date: October 12, 1943.

To: Mr. J. W. Hill, Supervising Engineer, United States Vanadium Corporation, Agents for Metals Reserve Company, Grand Junction, Colorado.

Copy to: Mr. J. R. Van Fleet, Mr. Blair Burwell.

Subject: Nisley-Wilson.

Dear John: Enclosed is copy of letter dated today which I am sending to Metals Reserve Company in connection with extension of Toll Agreement between ourselves and Nisley and Wilson. Also enclosed is copy of letter dated today which deals with recovery figures at the Nisley-Wilson Plant.

One executed copy of supplemental agreement is returned for your files.

Yours very truly,

/s/ G. DONALD EMIGH.

vl/G. Donald Emigh

ICC

att.

Defendant U's Exhibit "O"—(Continued)

cc: Mr. J. R. Van Fleet

Mr. Blair Burwell

Mr. J. W. Hill

October 12th, 1943

Metals Reserve Company

Washington 25, D. C.

Attention: Mr. H. DeWitt Smith

Subject: Toll Agreement (Nisley-Wilson)

Gentlemen:

Enclosed is executed copy of a supplemental agreement entered into as of July 6, 1943, by United States Vanadium Corporation as Agents for Metals Reserve Company and Nisley and Wilson, a partnership operating vanadium plant at Gateway, Colorado. The attached agreement extends the Toll Agreement, entered into January 26, 1943 by the same two parties, from the period of its expiration July 1, 1943 to January 1, 1944.

From our wire of June 30th to you and from conversations in the interim we have recommended to you that the treatment charges to be paid under this supplemental agreement should initially be the same as those provided for in the toll agreement dated January 6, 1943. We are in this letter hereby reaffirming that our examination of the records of the Nisley-Wilson operation, copies of which have been sent you, indicates to us that present toll charges are necessary for the maintenance of this operation. It is our recommendation that these charges remain unchanged at this time.

Defendant U's Exhibit "O"—(Continued)

Attached to this letter are typewritten copies and photostatic copies of the following correspondence:

(1) Letter from our Colorado attorney, Mr. E. B. Adams, dated October 4th, 1943.

(2) Our letter to our Mr. J. W. Hill dated September 28th, 1943.

(3) Letter from our attorney, Mr. E. B. Adams, dated September 22, 1943.

(4) Copy of certification signed by Alta Hall, acknowledging receipt of \$1156.50 from Mr. H. I. Gardner. Copy of this certification was forwarded to our New York office attached to our Mr. Hill's letter dated July 29th.

We believe the above correspondence concerning the right of Nisley and Wilson to continue during the term of the present agreement, is sufficient for your needs, if not, we shall be glad to obtain whatever more is necessary.

Yours very truly,

UNITED STATES VANADIUM  
CORPORATION,

As Agents for Metals Reserve  
Company,

/s/ G. DONALD EMIGH.

vl/G. Donald Emigh

USVC

2394 *Continental Ore Company, et al., vs.*

Defendant U's Exhibit "O"—(Continued)

October 12th, 1943

Metals Reserve Company

Washington 25, D. C.

Attention: Mr. H. DeWitt Smith

Subject: Nisley-Wilson Vanadium Operation

Gentlemen:

In the August Progress Report on the vanadium operations, three copies of which were sent recently to your Mr. Petterson, it was pointed out that recovery to date in the Nisley Wilson vanadium mill at Gateway, Colorado, is between 66.30% and 67.80%. The Toll Agreement of January 26th, under Clause 6, provides that the  $V_2O_5$  content of the fused vanadium oxide produced shall not be less than 70.00% of the  $V_2O_5$  content in the ore treated.

With present recovery figures at hand it is apparent that the operators of the Nisley-Wilson plant are not making the 70.00% recovery. In our judgment this plant is being handled in an efficient manner and the recoveries being made are not out of line with those effected at other vanadium plants in this region.

We recommend to Metals Reserve Company, therefore, that in the Toll Agreement dated January 26th, 1943 in Clause 6, the minimum recovery figure of 70.00% be changed to 65.00%.

Defendant U's Exhibit "O"—(Continued)

Yours very truly,

**UNITED STATES VANADIUM  
CORPORATION,**

As Agents for Metals Reserve  
Company,

/s/ G. DONALD EMIGH.

vl/G. Donald Emigh  
USVC

cc: Mr. J. R. Van Fleet  
    Mr. Blair Burwell  
    Mr. J. W. Hill

October 7th, 1943

Metals Reserve Company  
Washington 25, D. C.

Attention: Mr. H. DeWitt Smith

Re: Toll Agreement dated January 26th, 1943 with  
    Nisley & Wilson

Gentlemen:

We have received in our office on October 6th a letter from you inquiring into the status of the supplemental agreement between ourselves and the operators of the Nisley-Wilson Vanadium Mill at Gateway, Colorado.

We have in New York an executed supplemental agreement which you had previously approved and also have in New York an opinion from our counsel concerning the legal right of Nisley and Wilson



Defendant U's Exhibit "O"—(Continued)

to continue operations at the Gateway plant during the term of the supplemental agreement. The writer did not believe our counsel's opinion was sufficiently clear for your purpose and some time back wrote our Mr. J. W. Hill in Colorado asking for a clearer opinion. We anticipate receiving this shortly and will forward it to you along with a copy of the agreement and our written recommendation as to toll charges.

Yours very truly,

UNITED STATES VANADIUM  
CORPORATION,

As Agents for Metals Reserve  
Company,

/s/ G. DONALD EMIGH.

vl/G. Donald Emigh  
USVC

cc: Mr. J. R. Van Fleet  
Mr. Blair Burwell  
Mr. J. W. Hill

DEFENDANT U EXHIBIT "Q"

Exhibit No. 1

A-43-a

May 11, 1943

Letter Contract No. W-7405 eng-78

New York, New York

Union Mines Development Corporation

30 East 42nd Street

New York, N. Y.

Gentlemen:

The United States of America, acting through the undersigned Contracting Officer, has requested your Corporation to perform the work hereinafter outlined and we understand that in the interests of the war effort you are willing to exert your best efforts to perform such work, but it is understood that you make no representation or warranty whatsoever and assume no responsibility or obligation that the work can be successfully performed.

Accordingly, the United States of America, acting through the undersigned Contracting Officer, hereby places an order with you, that you shall with the utmost secrecy and dispatch, and in accordance with instructions of the Contracting Officer, or his duly authorized representative, furnish all labor, materials, and equipment not furnished by the Government, and services, and do all things necessary to cover the work anticipated in a survey of S-37 and the development of suitable processes of beneficiation for such S-37.

Defendant U Exhibit "Q"—(Continued)

Your fee for conducting this survey will be determined by the Contracting parties at a future date.

Funds for carrying out this work have been appropriated and are now available for use of the War Department under Procurement Authority No. ENG 31110 P-430-07 A-0905-23.

The Secretary of War finds that it is in the interest of the war effort that this work be not delayed awaiting negotiations of a formal contract and accordingly, you are hereby given formal notice to proceed with the survey.

It is contemplated that this contract will be supplemented by a formal contract between yourselves and the United States of America. All applicable contract clauses, required by Federal Law and Executive Order, to be incorporated in contracts for services of the kind herein specified, are hereby incorporated herein by reference. Such formal Contract will also include an appropriate clause providing for the termination of the contract for the convenience of the United States of America.

Upon your acceptance hereof, advance payments in accordance with the existing requirements of the War Department as set forth in W. D. Contract Form No. 24 may be made to you upon your application. Notwithstanding any other provision of this contract, you shall be under no obligation whatsoever to advance or use any of your own funds in the performance of this contract, but you shall be

Defendant U Exhibit "Q"—(Continued)

reimbursed as therein provided to the extent that you, at your option, may advance or use any of your own funds for such purpose.

In the event the United States of America is unable to negotiate with you a satisfactory contract to supplement this contract prior to August 15, 1943, this contract will terminate and the United States of America will pay you in full settlement hereof a sum equal to reimbursement for all costs incurred by you in connection with the performance of this contract plus such other sums as may have actually been or may be expended by you, in good faith, in settlement of all obligations, commitments and claims which you may theretofore have incurred, less any reimbursements previously made, but in any event the total payments shall not exceed the sum of Five Hundred Thousand Dollars (\$500,000.00).

It is the understanding of the parties hereto, and the intention of this contract, that all the work is to be performed at the expense of the Government and that the Government shall hold you harmless against any loss, expense (including, but not limited to, expense of litigation) or damage (including, but not limited to, liability to third persons because of death, bodily injury, property injury, destruction, patents or otherwise) of any kind whatsoever arising out of or in connection with the performance of the work, except to the extent that such loss, expense, damage or liability is due to the per-

Defendant U Exhibit "Q"—(Continued)

sonal failure on the part of your corporate officers, or other of your representatives having supervision or direction of the work as a whole, to exercise good faith or that degree of care which they normally exercise in the conduct of your business.

Neither this contract nor any interest therein or claim thereunder shall be assigned or transferred by the Contractor to any other party or parties.

It is understood that disclosure of information relating to the work contracted for hereunder to any person not entitled to receive it, or failure to safeguard all secret, confidential and restricted matter that may come to the Contractor or any person under his control in connection with the work under this contract, may subject the Contractor, his agents, employees, and Subcontractors to criminal liability under the laws of the United States. (See Title 1 of an Act approved June 15, 1917, 40 Stat. 217; 50 U.S.C. 30-42), as amended by an Act approved March 23, 1940 (54 Stat., Chap. 72); and the provisions of an Act approved January 12, 1938, (52 Stat. 3; 50 U.S.C., Supp. V 45-45d), as supplemented by Executive Order No. 8381, dated March 22, 1940, 5 F.R. 1147, D.I.

The Contractor will not permit any alien employed or to be employed by it or by any sub-bidder or subcontractor to have access to the drawings, specifications and accompanying enclosures relating to the performance of this contract, or to the mod-

Defendant U Exhibit "Q"—(Continued)

els or material referred to therein, or to engineering principles, composition, sub-assemblies or assemblies which are vital to the functioning or use of article or articles forming the subject matter of this contract, without the written consent beforehand of the Secretary of War.

It is understood and agreed that the meaning of the code term S-37 as used herein as well as the general aims and procedure to be followed in the performance of the work hereunder shall be as set forth in a secret letter from the Government to the Contractor dated May 11, 1943, the contents of said letter constituting a part of this contract to the same extent as if fully set forth herein. A copy of said letter shall be kept on file in the Manhattan District Office.

If the foregoing is acceptable to you, it is desired that you indicate hereon and on the inclosed two copies of this letter and return the original and one copy to the Contracting Officer as soon as possible. Such acceptance will constitute this Order a Contract.

Very truly yours,

UNITED STATES OF  
AMERICA,

/s/ By K. D. NICHOLS,

K. D. Nichols,

Lt. Col., Corps of Engineers,  
Contracting Officer.

2402     *Continental Ore Company, et al., vs.*

Defendant U Exhibit "Q"—(Continued)

Accepted this 24th day of May, 1943.

**UNION MINES DEVELOP-  
MENT CORPORATION,**

/s/ By J. R. Van FLEET,  
President. (Title)

Exhibit No. 2

Contract No. W-7405 eng-78

Exploration and Development Contract

Contractor: Union Mines Development Corpora-  
tion, New York, N. Y.

Contract For: Exploration and Development of  
S-37.

Estimated Cost: First year \$750,000.00; Second  
year \$3,500,000.00.

No Fixed Fee.

Payment: To be made by Finance Officer, U. S.  
Army at: U. S. Engineer Office, Manhattan District,  
New York, N. Y.

The supplies and services to be obtained by this  
instrument are authorized by, are for the purpose  
set forth in, and are chargeable to the following  
procurement authority or authorities, the available  
balances of which are sufficient to cover the cost of  
the same:

210/40141 E. P. OF E. & S. 1940-44 8-25562  
P110-07.

.....  
This contract is authorized by the following laws:  
Title II of the First War Powers Act, 1941, Act of

Defendant U Exhibit "Q"—(Continued)

December 18, 1941 (Public Law 354 — 77th Congress), and Executive Order No. 9001, dated December 27, 1941.

Exploration and Development Contract

This Contract entered into this 17th day of April, 1944, effective as of the 11th day of May, 1943, by and between the United States of America (hereinafter called the "Government"), represented by the Contracting Officer executing this contract, and Union Mines Development Corporation, a corporation organized and existing under the laws of the State of Delaware, with its principal business office at No. 30 East 42nd Street, New York, New York (hereinafter called the "Contractor");

Witnesseth That:

Whereas, The Government desires to determine and evaluate resources of S-37 and acquire the strongest possible control of the production and disposal of such resources as may be accessible and are considered to have commercial value, and to determine suitable methods of exploitation of such resources as may be found, and to develop suitable processes for beneficiation of any supplies of S-37 as may be required; and

Whereas, in the accomplishment of this work, the Government desires to utilize among others the services of the Contractor under a contract providing for reimbursement of costs, entered into after negotiations approved by the Secretary of War, and without advertising for proposals, and such con-



Defendant U Exhibit "Q"—(Continued)

tract is authorized by law, and will facilitate the prosecution of the War; and

Whereas, as a result of such negotiations, the Secretary of War has directed the Government to enter into a contract with the Contractor to accomplish such purposes;

Now, Therefore, the parties hereto do hereby mutually agree as follows:

Title I

Statement of Project

Article I-A—Objectives and Scope

1. The Contractor shall, at the cost and expense of the Government (see Title II) and in accordance with instructions of the Contracting Officer, exert its best efforts to furnish all labor, materials and equipment not furnished by the Government, and otherwise do all things necessary to determine and evaluate the resources of S-37, to make recommendations for the acquisition of the strongest possible control of the production and disposal of such resources as may be accessible and are considered to have commercial value, to make recommendations for suitable methods of exploitation of any such resources as may be found, and to make recommendations for the beneficiation of any supplies of S-37 which may be acquired (all work to be performed by the Contractor under this Contract being hereinafter sometimes called the "Project"). Except as the

Defendant U Exhibit "Q"—(Continued)

Contracting Officer may otherwise direct or approve, the Contractor shall conduct the Project with the utmost secrecy and dispatch and shall not inform its subcontractors or other outside organizations that any of the Project is being performed for the Government.

In addition to the foregoing, other general objectives of the Project are as follows:

(a) To determine as quickly and accurately as possible, the total S-37 resources of each geographical area broken down into three classes, (1) Proven, (2) Semi-proven or Reasonably Certain and (3) Conjectural.

(b) To evaluate the commercial productive possibilities of each of the three classes of resources in terms of richness of the S-37 and quantities of each grade of S-37 available in separate deposits or localities.

(c) To make recommendations and, to the extent mutually agreed upon between the parties hereto, make suitable arrangements for prompt exploitation of the S-37 resources as may be accessible and are considered to have commercial value.

(d) To prepare estimates from time to time of quantities and qualities of the S-37 resources which can be produced. These estimates shall be broken down into two classes, (1) Economical Rates of Production and (2) Maximum Rates of Production, together with estimates of production costs, for both classes.

Defendant U Exhibit "Q"—(Continued)

2. As a part of the Project, the Contractor shall work along the following lines:

(a) Library and institutional research of available literature bearing on the Project objectives shall be conducted for the purpose of collecting the maximum information with regard to known occurrences of S-37 and related geological factors. Preliminary and final reports covering this phase of the Project shall be prepared on separate geographical areas. The results shall be evaluated, and recommendations prepared concerning the character and scope of physical investigation which should be made leading toward the accomplishment of the ultimate Project objectives. The Contractor shall exert its best efforts to complete the initial study of such available literature by December 31, 1944.

(b) In accordance with programs which shall be prepared and recommended by the Contractor and to the extent directed or approved by the Contracting Officer, the Contractor's field forces shall conduct preliminary reconnaissance, surface prospecting, detailed geological mapping, sub-surface prospecting, and other physical exploration and development work at promising locations of S-37. Concurrently with such field work, analyses of ore samples shall be made in analytical laboratories.

(c) When promising deposits of S-37 are discovered or are reasonably believed to exist as a result of the work hereunder the Contractor shall make recommendations to the Contracting Officer for the

Defendant U Exhibit "Q"—(Continued)

acquisition of the strongest possible control of the production and disposal of the desired resources. In accordance with such recommendations and to the extent directed or approved by the Contracting Officer, the Contractor shall, as a part of the Project, exert its best efforts to acquire (by purchase, staking, filing, refiling or otherwise) claims discovered by the Contractor in carrying out the Project on all mineral deposits containing or believed by the Contracting Officer and/or by the Contractor to contain S-37 or to contain other mineral deposits of value which the Government wishes to own directly or through a Governmental Agency. All such claims so acquired shall be located, filed or otherwise acquired in the name of the Contractor or otherwise as the Contracting Officer shall direct. The Contractor is empowered, upon the direction or approval of, and to the extent authorized in writing by, the Contracting Officer, to purchase or otherwise acquire for the Government or a Governmental Agency, as the Contracting Officer may direct, hold in its name or otherwise as the Contracting Officer may direct, secure or grant leases of, obtain options for rights in, assign, transfer, sell or otherwise dispose of metals, minerals, and ores, lands containing metals, minerals, or ores, and claims or other rights with regard to metals, minerals, or ores. Such right, title and interest to any property, real or personal, leasehold or option, as may be acquired by the Contractor pursuant to this paragraph shall, unless

Defendant U Exhibit "Q"—(Continued)

such property shall be abandoned or otherwise disposed of as approved by the Contracting Officer, be held by the Contractor for the Government or a Governmental Agency, as the Contracting Officer may direct, and be turned over to the Government or such Governmental Agency at the request of the Contracting Officer, subject to any leases, claims, options or other rights in third parties not granted by the Contractor or granted by the Contractor with the approval of the Contracting Officer.

\* \* \* \* \*

Article IV-J—Disclosure of Information

It is understood that disclosure of information relating to the work contracted for hereunder to any person not entitled to receive it, or failure to safeguard all secret, confidential and restricted matter that may come to the Contractor or any person under its control in connection with the work under this contract, may subject the Contractor, its agents, employees, and subcontractors to criminal liability under the laws of the United States. (See Title I of an Act approved June 15, 1917, (40 Stat. 217; 50 U.S.C. 30-42), as amended by an Act approved March 23, 1940 (54 Stat. Chap. 72); and the provisions of an Act approved January 12, 1938 (52 Stat. 3; 50 U.S.C., Supp. V 45-454), as supplemented by Executive Order No. 8381, dated March 22, 1940, 5 F.R. 1147 D.I.).

\* \* \* \* \*

In Witness Whereof, the parties hereto have

Defendant U Exhibit "Q"—(Continued)

executed this contract in triplicate as of the day and year first above written.

THE UNITED STATES OF  
AMERICA,

/s/ By K. D. NICHOLS,  
K. D. Nichols,  
Lt. Col., Corps of Engineers,  
Contracting Officer.

UNION MINES DEVELOP-  
MENT CORPORATION,

/s/ By J. R. Van FLEET,  
President,  
30 East 42nd St., New York,  
N. Y. (Business Address).

Two Witnesses as to Execution by the Con-  
tractor:

/s/ KENNETH RUSH,  
30 East 42nd St., New York,  
N. Y.,

/s/ W. G. HALDANE,  
30 East 42nd St., New York,  
N. Y.

Duly Verified.

**2410**     *Continental Ore Company, et al., vs.*

**DEFENDANT U EXHIBIT "R"**

United States Vanadium Corporation  
Agent For Metals Reserve Company  
Grand Junction, Colorado

December 20, 1943

Metals Reserve Company  
Washington 25, D. C.

Gentlemen:

Attached hereto is the Progress Report for the month of November, 1943, covering the operations of the United States Vanadium Corporation, Agent for Metals Reserve Company, in the procurement of sandstone vanadium ores.

Included in this report, under the heading of "Condensed Monthly Report" for Durango, is a breakdown of the United States Vanadium Corporation's operating fee for the Durango Plant at 2c per pound of  $V_2O_5$  contained in the fused oxide produced at Durango, Colorado, and 1c per pound of  $V_2O_5$  for the fused oxide for purchasing the ore as approved by Mr. S. H. Petterson on December 7, 1943.

Very truly yours,

UNITED STATES VANADIUM CORPORATION,  
AGENT FOR METALS RESERVE  
COMPANY,

/s/ JOHN W. HILL,

John W. Hill, Supervising Engineer.

JWH:fr

Defendant U Exhibit "R"—(Continued)

Report of  
United States Vanadium Corporation  
Agent for Metals Reserve Company

November 30, 1943

Durango Plant

General

Ore receipts for the month were 4670.163 dry tons containing 195647.3 pounds of  $V_2O_5$ , and 174003 pounds of CaO. The milled tonnage was 2862.504 dry tons with an average assay of 2.08%  $V_2O_5$  or its equivalent of 118908.4 pounds of  $V_2O_5$ . The lime averaged 1.82% CaO or 104432 pounds of CaO. Without the application of the loss factor, the dry tons to stockpiles becomes 1807,659, 46.6% of which was Placerville Roscoelite. The Placerville stockpile now contains 4,588.463 dry tons at 1.74%  $V_2O_5$  or 159,682.5 pounds of  $V_2O_5$ . A composite sample of eight cars of Placerville was run some time ago for  $U_3O_8$  with a result of 0.12%.

Roasting Plant

The roaster average thruout was 95.407 dry tons per day. The circulating load of flue dust averaged 7.65 tons per day over the dry heads. The calcined ore contained 1.35% W. S.  $V_2O_5$  from 2.08%  $V_2O_5$  heads giving an extraction which averaged 62.52%.

The composite sample of Roaster Feed roasted in the laboratory resulted in an overall weight loss of 3.36% in volatile and combustible losses, dust being negligible under laboratory conditions. The follow-



Defendant U Exhibit "R"—(Continued)

ing is a comparison of the actual and laboratory results:

	Wt.	%	%Tot.	%W.S.	%	%Res.
	Loss	NaCl	V <sub>2</sub> O <sub>5</sub>	V <sub>2</sub> O <sub>5</sub>	Extrac.	NaCl
Lab.	3.356	6.90	2.06	1.60	76.2	3.95
Act.	?	6.14	2.08	1.35	62.52	2.37

Roaster operation was practically continuous since there were only four hours lost time for drag cooler drive repair.

Leach Plant

Estimated tonnage by tank fills was 2708.75 tons of tailings to the pound. Weight loss from dry heads to tailings was 5.37%. This loss is apparently very low and is used to compensate for those that may have been too high. The laboratory results on a calcine composite show an over-all weight loss on water soluble alone of 5.2%. Of this amount 1.30% V<sub>2</sub>O<sub>5</sub> and 2.38% residual NaCl represent known water soluble compounds. The over-all weight loss with salt and pyrite in was 9.946 in the laboratory and 11.17% in the plant.

A weighted composite of tailings assayed 0.84% V<sub>2</sub>O<sub>5</sub> and 0.24% U<sub>3</sub>O<sub>8</sub>. The content of the current tailings to the pond was 43955.6 pounds of V<sub>2</sub>O<sub>5</sub> and 13,002.0 pounds of U<sub>3</sub>O<sub>8</sub>.

Precipitation

Total precipitations this month were 69,924.6 pounds of V<sub>2</sub>O<sub>5</sub>. The washed red cake to fusion contained 69,225.4 pounds of V<sub>2</sub>O<sub>5</sub>. Recovery by V<sub>2</sub>O<sub>5</sub> to fusion was 58.22%.

Defendant U Exhibit "R"—(Continued)

**Fusion**

Sacked Oxide produced totals 78660 pounds at the average assay of 87.103%  $V_2O_5$  or 68515.29 pounds of  $V_2O_5$ . Recovery by the final product was 57.62%.

As of November 30, 67633.24 pounds of  $V_2O_5$  remained in storage. Shipments to date total 885415 pounds of  $V_2O_5$  and production to date totals 953048.24 pounds of  $V_2O_5$ .

**Nisley & Wilson Vanadium Mill**

The Nisley & Wilson Vanadium Mill at Gateway, Colorado, delivered 11,243.10 pounds of  $V_2O_5$  to this office at Grand Junction, Colorado, which was the amount of  $V_2O_5$  produced from 16,246.82 pounds of  $V_2O_5$  available for treatment. This indicates a recovery of 68.3% for a total cost of  $V_2O_5$  delivered of \$1.56 per pound.

The Nisley & Wilson Vanadium Mill has been notified that their present operating agreement with the Metals Reserve Company terminates on January 1, 1944. At that time the plant circuit will be cleaned up and all  $V_2O_5$  tied up in the plant inventory will be delivered to the Metals Reserve Company and final settlement will be made of the Nisley & Wilson account. It is anticipated that some loss will occur as it will not be possible to obtain the vanadium tied up in the low-grade circulating liquors.

At this time there are 2787.47 tons of ore, containing 101,310.05 pounds of  $V_2O_5$  stockpiled at

Defendant U Exhibit "R"—(Continued)

Gateway, Colorado. In the anticipation of the continued storage of this Gateway stockpile, a new lease arrangement is being made with H. I. Gardner for the continued storage of the ore at Gateway.

Ore Procurement

Costs and Amounts.

During this month 7,650.04 dry tons of ore containing 309,976.75 pounds of  $V_2O_5$  including all receipts were accounted for in the procurement of sandstone ores. This month's receipts show an increase of 952.89 dry tons over the month of October. The only reason for this increase would be the completion of the harvest season and the termination of the big game hunting season.

The cost per pound of  $V_2O_5$  contained in ores purchased plus the direct stockpile expense and the allocated overhead expense for this month was \$.568, an increase of 2c per pound over the previous month. Of the increase of 2c per pound approximately 1c per pound can be accounted for as increased direct stockpile expenses. It can be noted that at Thompsons, Utah, the expenses have increased approximately 75%; Moab, Utah, 73%; Dove Creek, Colorado, 42%; Gateway, Colorado, 63%. In all cases the increase in cost is due principally to maintenance and replacement of worn equipment. At Thompsons the gravity sampler splitters had to be replaced as well as the crusher jaws. At Moab numerous parts had to be supplied

Defendant U Exhibit "R"—(Continued)

and replaced in the crushing unit, and similarly at Dove Creek as well as repairs on the Dolores County gasoline power unit. The invoice on this power unit was not presented for payment although the work had been completed for many months. We are endeavoring to make the necessary repairs on the sampling plants as time permits.

The principal item of increase as noted on the Summary of Costs of Sandstone Vanadium Ores, under the heading of "Rate per pound  $V_2O_5$ " is ores received from Farmington. It shows an increase from \$.623 to \$.788. It will be noted that the receipts for the current month were only 47.64 dry tons of ore containing 1994.47 pounds of  $V_2O_5$ , and against this amount was charged the direct stockpile expense of \$298.25. Of this amount \$288.00 was paid to Ledoux and Company for the assaying of the Wade, Curran ores. This amount has been collected from Wade, Curran and Company and has appeared as a credit heretofore.

At Monticello, Utah, producer's ore showed an increase of \$.022 per pound of  $V_2O_5$  contained in ores received. This increase is due to recommended increases in price on two small producers in that area. This increase in price is justified due to the fact that these two producers have been producing an appreciable tonnage at a cost to Metals Reserve Company below the average ore purchase price. The increase was made to allow some development and maintenance of production for the re-

Defendant U Exhibit "R"—(Continued)

mainder of the ore purchasing program. New contracts were made that stipulated thirty-day cancellation clauses.

No other changes in ore prices will be made. The date of the above ore contracts was November 1, 1943.

Operations

The operations at all receiving stations were conducted on a normal basis.

Rare Metals of Colorado, Inc. Lease

As of November 30, 1943, 4,135.07 has been expended at the Rare Metals, Inc. mine near Placerville, Colorado. Of this amount approximately \$1400.00 was spent in October for air and water lines, air hose, hand tools, jackbits, and \$450.00 for labor. In the month of November approximately \$1500.00 was spent, the principal items being drill steel, switches, powder, caps, fuse, opinion on obstracts, expense accounts, transportation charges, building materials, jackbits, rental on compressor and miscellaneous items. Labor for the month of November was \$773.17. The total anticipated expenditures for the month of December will be \$5800.00. It is estimated that the air and water lines and track will be installed in the principal adit by the middle of next month.

The No. 5 Portal and the surface buildings will be completed and active development work will be undertaken by December 20th, 1943.

\* \* \* \* \*

*Union Carbide & Carbon Corp., et al.*    **2417**

**DEFENDANT U EXHIBIT "T"**

**Metals Reserve Company                      October 4th, 1944**  
**Washington 25, D. C.**

**Attention: Mr. H. DeWitt Smith, Executive**  
**Vice President.**

**Gentlemen:**

In reply to your letter of September 30, 1944, we are enclosing our check for \$86,152.16 in payment for purchase of buildings, machinery and equipment located at Durango, County of La Plata, Colorado, as per bill of sale executed as of July 31, 1944, from the Metals Reserve Company. This covers:

Depreciated price of Durango Plant....	\$90,736.60
Allowance for Fire Loss.....	4,656.94

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Net Purchase Price.....	\$86,079.66
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Pro rata share of annual rental of \$100.00 paid by Metals Reserve Com- pany to American Smelting & Refining Company .....	72.50
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Total Payment .....	\$86,152.16
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We are also enclosing one counterpart of the assignment of lease.

We understand that Metals Reserve Company will make payment on the portion of taxes assessed against the property for 1944 when due, which is

**2418**    *Continental Ore Company, et al., vs.*

Defendant U Exhibit "T"—(Continued)

covered by the period of Metals Reserve Company ownership.

Yours very truly,

UNITED STATES VANADIUM  
CORPORATION,

Vice President.

vl/Blair Burwell

USVC encl.

bc: Messrs. J. R. Van Fleet

W. G. Haldane

---

DEFENDANT U EXHIBIT "U"

Conformed Copy

Agreement made as of the 13th day of October, 1944, by and between United States Vanadium Corporation, a corporation created and existing under the laws of the State of Delaware, and having an office at 30 East 42nd Street, New York, N. Y., herein called "Contractor", and Metals Reserve Company, a corporation created pursuant to Section 5d of the Reconstruction Finance Corporation Act, as amended, to aid the Government of the United States in its national defense program and war effort and having an office at 811 Vermont Avenue, N.W., Washington 25, D. C., herein called "Metals Reserve",

Witnesseth:

Whereas, the Contractor has acquired or is about to acquire from Metals Reserve, the ownership of

Defendant U Exhibit "U"—(Continued)

the vanadium plant at Durango, Colorado, mentioned in, and in accordance with the option contained in, a certain agreement between the parties hereto identified as Agency Agreement AA-92; which plant is hereinafter referred to as the Durango Plant; and

Whereas, Metals Reserve is the owner of a certain stockpile of vanadium bearing ores located at or near said Durango Plant, it being estimated that said stockpile contains approximately 21,609 short tons of crude vanadium ore, and Metals Reserve is desirous of having the said ore processed and treated in said Durango Plant by the Contractor upon the terms and conditions hereinafter set forth;

Now, Therefore, in consideration of the premises Contractor and Metals Reserve hereby agree as follows:

1. Subject to the provisions and conditions hereinafter mentioned, the Contractor shall process and treat the aforesaid vanadium bearing ores at said Durango Plant, and deliver to Metals Reserve in the form of sacked fused vanadium oxide f.o.b. railroad cars at said Durango Plant or storage warehouse at Durango, at option of Metals Reserve, an amount of sacked fused vanadium oxide equal to 62.62% of the  $V_2O_5$  contained in said ore fed to said Durango Plant. All the rest, residue and remainder of said ore in the form of tailings, processed or partially processed material, or other-



## Defendant U Exhibit "U"—(Continued)

wise, shall be and become the property of the Contractor, it being intended that if the quantity of  $V_2O_5$  extracted from such ore and delivered in the form of fused vanadium oxide shall be less than 62.62% of the  $V_2O_5$  content of the ore fed to the plant, then the Contractor shall make good the difference, and if the quantity extracted shall be more than 62.62% as aforesaid, the Contractor shall be entitled to retain the excess. All of said sacked fused vanadium oxide delivered hereunder shall contain a minimum of 84%  $V_2O_5$ , a maximum of 0.3% sulphur, a maximum of 1.5% insoluble material and shall otherwise conform to usual trade specifications and quality. Fused vanadium oxide not meeting the foregoing conditions may be rejected by Metals Reserve and Contractor shall replace same with sacked fused vanadium oxide meeting such conditions.

2. Metals Reserve shall pay to the Contractor an amount equal to 32.4¢ per lb. of  $V_2O_5$  delivered hereunder in the form of fused vanadium oxide, packed in sacks, such payment to be made upon receipt of two copies of Contractor's invoice for treatment, accompanied by two copies of R.F.C. Form No. T-31 Voucher, signed copy of railroad bill of lading or storage receipt in form acceptable to Metals Reserve identifying the material, and two weight and analysis certificates certified by Contractor. All billings by the Contractor hereunder shall be based upon Contractor's analyses and ex-

Defendant U Exhibit "U"—(Continued)

cept in the case of final billing shall be made on the basis of carload lots. In the event that Metals Reserve shall dispute any analysis of the Contractor, final adjustment shall be made between the parties hereto on the basis of umpire laboratory analyses made pursuant to Article 6 hereof.

3. All weights of ore fed to the plant are to be determined by truck scale weights, of which Metals Reserve's representative has the right of inspection and check. At the time the truck weights are taken moisture samples are to be taken for the determination of moisture content. Moisture samples are to be stored in sealed cans and the moisture determined by standard methods as agreed to by the representative of Metals Reserve and the Contractor, or failing agreement as determined by an independent analyst. The resulting dry weights are to constitute the quantity of ore fed into the Durango Plant.

4. Daily samples of ore for the determination of the vanadium content of the ore fed into the plant will be taken by standard methods at a point and in a manner to be agreed upon by the representatives of Metals Reserve and the Contractor, preferably and if possible by automatic sampling methods. Such daily samples are to be divided into three parts. One of said parts shall be used for daily analysis by the Contractors; the second of said parts shall be delivered to the representative of Metals Reserve; and the third of said parts shall

Defendant U Exhibit "U"—(Continued)

be used for the composite sample hereinafter mentioned.

At the end of each ten day period the daily composite sample shall be used to make one weighted sample jointly by the representatives of Metals Reserve and the Contractor. This weighted ten day composite sample shall be divided into three parts. One of said parts shall be delivered to the Contractor; one of said parts to the representative of Metals Reserve; and the remaining part shall be retained for umpire analysis.

The Contractor shall deliver to representative of Metals Reserve written statements containing the following information:

- a. The gross wet tons of ore fed to the plant each day and during each ten day period;
- b. The net dry tons of ore fed to the plant each day and during each ten day period;
- c. The  $V_2O_5$  analysis and pounds of  $V_2O_5$  contained in ore fed to the plant each daily period and during each ten day period;
- d. The  $V_2O_5$  analysis of the composite sample of ore fed to the plant each ten day period.

If Metals Reserve does not disagree in writing within thirty days after receipt of such statement, the  $V_2O_5$  analysis of the composite sample therein stated shall be deemed accepted and shall be binding upon both parties as the determination of the  $V_2O_5$  content of the ore fed to the plant during the period covered by such statement. Should Met-

Defendant U Exhibit "U"—(Continued)

als Reserve disagree with the V.O. determination of the Contractor contained in such statement, Metals Reserve shall deliver to the Contractor, within such thirty day period, a written statement setting forth its determination. If the parties shall be unable to promptly reconcile the difference, then the part of the composite sample for the same period preserved for umpire analysis shall be delivered to the umpire laboratory agreed upon for this purpose. The umpire laboratory findings are to be final and binding upon both parties and the cost of umpire analyses shall be borne by the party whose determination was furthest from the umpire determination.

5. The finished fused oxide shall be weighed and sampled by representatives of Metals Reserve and the Contractor in accordance with standard practice as agreed upon by the representative of Metals Reserve and the Contractor, and three portions of such final sample shall be taken, one of such portions shall be delivered to the representative of Metals Reserve, one of such portions shall be delivered to the representative of the Contractor, and the third of such portions shall be retained for umpire analysis in the event of any dispute between the parties hereto as to the analysis thereof.

6. In the event of dispute as to the analysis of any sample or samples of ore fed to the plant and/or fused vanadium oxide delivered hereunder, the same shall be submitted to either Ledoux & Co.

Defendant U Exhibit "U"—(Continued)

Inc., Booth, Garrett and Blair or Andrew S. MacCreath and Son, as Metals Reserve may elect, as umpire laboratory, and the determination of such umpire laboratory shall be final and binding upon both parties.

7. Contractor agrees, upon request of Metals Reserve, to make available without compensation for the storage of sacked fused vanadium oxide pending sale or other disposition any existing storage capacity at said Durango Plant. Should Metals Reserve so request, Contractor also agrees to act without compensation as shipping agent for Metals Reserve and in this connection will arrange shipments of said sacked fused vanadium oxide pursuant to letters of instruction issued by Metals Reserve.

8. The processing of the ore shall be commenced as soon as practicable and Contractor shall and will complete this contract not later than twelve months from the date hereof. Contractor shall not be liable for any failure to make deliveries or delay in making deliveries which may result from fire, strikes, Acts of God, or other causes beyond the control of the Contractor.

9. This contract shall be deemed to contain all of the provisions of subsection (b) of the Renegotiation Act, as amended by Section 701 of the Revenue Act of 1943 (Public Law 235, 78th Congress), enacted February 25, 1944; and in compliance with

**Defendant U Exhibit "U"—(Continued)**

that subsection the Contractor shall insert, in each subcontract (as that term is defined in said Act) entered into by the Contractor, a provision that: "This contract shall be deemed to contain all of the provisions of subsection (b) of the Renegotiation Act, as amended."

10. It is expressly understood and agreed that the covenants, conditions and provisions contained in Exhibit A, annexed hereto and made a part hereof, shall be and be deemed to be incorporated in this agreement to the same extent and with the same effect as if set forth herein at length.

In Witness Whereof, Contractor and Metals Reserve have caused this agreement to be executed in duplicate by their respective officers thereunto duly authorized, the day and year first hereinabove written.

**UNITED STATES VANADIUM  
CORPORATION,**

/s/ By **J. R. VAN FLEET,**

President.

**METALS RESERVE COMPANY,**

/s/ By **H. DEWITT SMITH,**

Executive Vice President.

**MRC Form No. 21, revised 11/11/43**

**EXHIBIT A**

1. Assignment. (a) Contractor shall not, without the prior written consent of Metals Reserve,

Defendant U Exhibit "U"—(Continued)

sell, assign or pledge this Contract or any of its rights, powers, privileges, duties or obligations hereunder. (b) Metals Reserve may assign its interest under this Contract to any other branch or agency of the Government of the United States of America, and upon such assignment such assignee shall acquire all the rights, powers and privileges of Metals Reserve hereunder and shall be bound by all the duties and obligations of Metals Reserve hereunder, and Metals Reserve shall thereby cease to have any rights, powers, privileges, duties or obligations hereunder, it being expressly understood that any such assignment by Metals Reserve of its interest in this Contract shall be subject to all the rights, powers, and privileges of Contractor hereunder and shall be conditioned upon such assignee's assuming all duties and obligations of Metals Reserve hereunder.

2. Non-Waiver Clause. The failure of either the Contractor or Metals Reserve to insist, in any one or more instances, upon the performance of any of the terms, covenants, and conditions of this Contract shall not be construed as a waiver or relinquishment of the future performance of any such term, covenant or condition by the other party hereto, but the obligation of such other party with respect to such future performance shall continue in full force and effect.

3. Notice. Notice to either party hereto shall be sufficient only if given in writing addressed to

Defendant U Exhibit "U"—(Continued)

such party at the address set forth in the Contract, or, if the Contract designates an Agent, to such Agent's address as set forth in the Contract, or to such other address as either party for itself may hereafter specify to the other in writing.

4. Default. Notwithstanding any other provisions of the Contract to which this is attached as an Exhibit, Metals Reserve may, by notice in writing to Contractor, cancel this Contract or any part thereof at any time, without payment of damages or penalty of any kind for such cancellation, in the event (a) a receiver, liquidator or trustee is appointed for Contractor or its property, or Contractor makes an assignment for the benefit of Creditors, or Contractor becomes insolvent, or a petition is filed by or against Contractor pursuant to any of the provisions of the United States Bankruptcy Act, as amended, for the purpose of adjudicating Contractor a bankrupt, or for the reorganization of Contractor, or for the purpose of effecting a composition or rearrangement with Contractor's creditors, and such receiver, liquidator, or trustee is not discharged or any such petition filed against Contractor is not dismissed within sixty (60) days, (b) of the liquidation or dissolution of Contractor (if Contractor is a corporation), whether voluntary or involuntary, (c) of default by Contractor in the performance of any of the terms, conditions or covenants of this Contract or any amendment or supplement thereto and the failure of Contractor



Defendant U Exhibit "U"—(Continued)

to cure such default within thirty (30) days from the giving of a written notice of such default by Metals Reserve to Contractor, (d) of the determination by Metals Reserve that Contractor obtained this Contract for the purpose of speculation.

5. Governing Law. This Contract shall be construed under and governed by the law of the State of New York.

6. Contingent Fees. Contractor warrants that Contractor has not employed any person to solicit or procure this Contract upon any agreement for a commission, percentage, brokerage or contingent fee. Breach of this warranty shall give Metals Reserve the right to deduct from any amounts due Contractor from Metals Reserve the amount of such commission, percentage, brokerage, or contingent fee or to recover said amount upon making demand therefor, without prejudice to any other rights of Metals Reserve.

7. Members of Congress. No member of or delegate to the Congress of the United States of America or Resident Commissioner shall be admitted to any share or part of this Contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this Contract if made with a corporation for its general benefit.

8. Compliance with Applicable Laws. In the performance of this Contract, Contractor shall comply with and give all stipulations and representations

Defendant U Exhibit "U"—(Continued)

required by any applicable Federal, State, Municipal or local law, or Executive order, or any applicable rules, orders, regulations or requirements of any government department or bureau, including the provisions of and regulations under Walsh-Healey Act (49 Stat. 2036-2039) which are hereby incorporated herein by reference, but nothing herein contained shall be considered as preventing Contractor from contesting in good faith the validity of such law, rule, order, regulation or requirement or any charge that Contractor has not complied therewith. Contractor expressly agrees to comply with the applicable provisions of Executive Order 9301 establishing a minimum wartime workweek of forty-eight hours and any modifications thereof and any regulations issued pursuant thereto. Pursuant to Executive Order No. 8802 dated June 25, 1941 as amended by Executive Order 9346 dated May 27, 1943, Contractor hereby agrees that Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin and that Contractor will include in its subcontracts a similar provision obligating the subcontractor not to discriminate against any employee or applicant for employment because of race, creed, color or national origin.

2430 *Continental Ore Company, et al., vs.*

DEFENDANT U EXHIBIT "Z"

Metals Reserve Company  
Washington 25, D. C.

July 3, 1944

Union Mines Development Corporation  
30 East 42nd Street  
New York, N. Y.

Attention: Mr. J. R. Van Fleet, President.

Gentlemen:

Reference is made to Exploration and Development Contract No. W-7405 eng-78 effective as of the 11th day of May, 1943, between the United States of America (hereinafter called the "Government"), represented by the Contracting Officer executing the Contract, and yourselves. In aid of the war effort and of said Contract, you are hereby authorized by us to locate on Public Domain Lands in the so-called Colorado Plateau Area within the States of Wyoming, Colorado, New Mexico, Arizona and Utah mining claims containing carnotite and related ores subject to the following conditions:

All locations shall be made in your own name, but shall be made on our behalf and it is expressly understood and agreed that: any and all title acquired by you shall be transferred to our name or to the name of our nominee upon our request; the

Defendant U Exhibit "Z"—(Continued)

mining claims located pursuant to this authorization shall be only such claims as you shall be authorized to locate by the Government, acting through the Contracting Officer, as provided in Section 2.(c) of Article I-A, Title I of said Contract; this authorization is permissive only and you shall not look to us for reimbursement of any costs or expenses or for indemnification.

You shall promptly furnish us with a list of all mining claims as located by you from time to time, together with such detailed descriptions thereof as may be requested by us. You shall hold said claims, dispose of same and have the option rights regarding same as provided in said Contract No. W-7405 eng-78. The authorization contained in this letter may be cancelled by us at any time upon not less than fifteen days' prior written notice to you, provided that, if not previously terminated by us, said authorization shall terminate coincidentally with the termination of said Contract No. W-7405 eng-78 of which said termination you shall give us immediate notice in writing.

No Member of or Delegate to the Congress of the United States shall be admitted to any share or part of this Contract or to any benefit arising therefrom, but this provision shall not extend to this Contract if made with a corporation for its general benefit.

If the foregoing is agreeable to you, kindly indi-

Defendant U Exhibit "Z"—(Continued)

cate your acceptance by signing and returning to us the enclosed copy of this letter.

Very truly yours,

METALS RESERVE COMPANY,  
/s/ CHARLES B. HENDERSON,

By Charles B. Henderson,  
President.

Accepted and agreed to:

UNION MINES DEVELOPMENT  
CORPORATION,

/s/ By J. R. VAN FLEET,  
President.

U EX H  
FILED JUN - 5 1948  
C W CANTON, U. S. G.

SECRET

This document consists of page(s)  
Number 1 of 2 copies. Series.....

Union Mines Development Corporation  
30 East 42nd Street  
New York, N. Y.

May 20, 1947

unclassified

LA No

Attention: Mr. J. E. Van Fleet

Johnson March 17 1947

Gentlemen:

Reference is made to letter agreement dated July 3, 1944 between Union Mines Development Corporation and Metals Reserve Company, and to Exploration and Development Contract No. W-7405 eng-78 effective as of the 11th day of May, 1943 between the United States of America and yourselves.

As you know, pursuant to Public Law 109, 79th Congress, approved June 30, 1945, Metals Reserve Company was dissolved effective July 1, 1945, and all of its functions, powers, duties and authority, together with all of its documents, books of account, records, assets and liabilities of every kind and nature were transferred to Reconstruction Finance Corporation to be performed, exercised and administered by that Corporation in the same manner and to the same extent and effect as if originally vested in Reconstruction Finance Corporation.

Under date of May 1, 1947, we received a letter from Honorable David E. Lilienthal, Chairman, United States Atomic Energy Commission, informing us that Contract No. W-7405 eng-78 was transferred to the Atomic Energy Commission pursuant to Executive Order No. 9816, dated December 31, 1946, and requesting that Union Mines Development Corporation be instructed to transfer to the United States of America those mining claims acquired by it under said contract and held for and on behalf of Metals Reserve Company pursuant to said letter agreement dated July 3, 1944. The Commission is arranging for the preparation of the necessary transfer instruments.

Please, therefore, transfer to the United States of America, our nominee, all mining claims acquired by you under said letter agreement dated July 3, 1944. You will please contact the Atomic Energy Commission, which will prepare all necessary transfer instruments. We are forwarding a copy of this letter to the Atomic Energy Commission.

Under date of May 14, 1947, Honorable Sumner T. Pike, Acting Chairman of the Commission, wrote us advising that the Secretary of War has not excepted the right, title and interest of the War Department in the said claims from the transfers effected under Presidential Executive Order No. 9816 dated December 31, 1946.

Kindly acknowledge receipt hereof and inform us when the action herein requested has been consummated.

Very truly yours,

SECRET

Morris Levinson  
Executive Director  
Office of Metals Reserve

FILE COPY

ASH:LM

# ELECTRO METALLURGICAL SALES CORPORATION

Unit of Union Carbide and Carbon Corporation

Carbide and Carbon Building **UCC** 30 East 42nd Street, New York 17, N. Y.

## "ELECTROMET" FERRO-ALLOYS, METALS, AND OTHER METALLURGICAL PRODUCTS

### OFFICES

Carbide and Carbon Building, New York 17, N. Y.  
Union Commerce Building, Cleveland 14, Ohio  
Carbide and Carbon Building, Chicago 1, Ill.  
Adam Grant Building, San Francisco 4, Calif.  
Brown-Marx Building, Birmingham 3, Ala.  
General Motors Building, Detroit 2, Mich.  
Oliver Building, Pittsburgh 22, Pa.

DEFENDANT UNION CARBIDE EXHIBIT No. 2-I

December 10, 19 48

ELECTRO METALLURGICAL SALES CORPORATION agrees to sell and

Continental Ore Company

of New York, New York

agrees to buy Buyer's domestic manufacturing requirements

of Vanadium Oxide (Fused)

for delivery in as nearly equal monthly quantities as practicable at the respective prices, terms, and conditions set forth in this agreement, which shall continue until terminated by either party giving not less than six (6) months' prior written notice to the other party.

The prices and terms of payment for the standard grade or grades and sizes of this material, applicable in the zone or zones in which Buyer's plants are located, are shown on the schedule hereto attached and made a part of this agreement. The boundaries of the established price zones are shown on the reverse hereof.

The prices which are in effect may be revised by the Seller at the beginning of any calendar quarter year by giving not less than fifteen (15) days prior written notice to the Buyer. Such revised prices shall become effective at the beginning of such calendar quarter year and shall remain in effect until again revised in the manner hereinbefore provided. If any such revised prices are not acceptable to the Buyer, the Buyer may cancel future tonnage contracted for hereunder to which such revised prices apply by giving written notice to the Seller not less than ten (10) days prior to the beginning of such calendar quarter year.

Deliveries are subject to strikes, riots, war, governmental acts and regulations, fires, explosions, accidents, acts of God, delays in procuring sufficient or suitable raw materials, delays of carriers, curtailment of or failure in obtaining sufficient electrical power, and other similar or dissimilar contingencies affecting the Seller or the manufacturer of the material and beyond its reasonable control.

During any time in which the Seller is not satisfied with the Buyer's financial responsibility, the Seller may change the terms of payment or suspend deliveries.

The Buyer shall pay all existing and future taxes imposed by reason of sale or delivery under this agreement.

The benefits and obligations of this agreement shall extend to the successors and assigns of the respective parties.

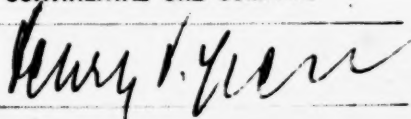
This agreement shall not be effective until approved by an officer or manager of the Seller and when so approved shall supersede all prior agreements covering the same material. No change in or addition to the terms hereof shall be made unless approved in writing by an officer or manager of the Seller, and an authorized representative of the Buyer.

ELECTRO METALLURGICAL SALES CORPORATION

ACCEPTED:

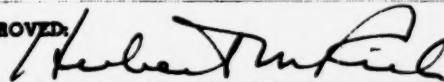
CONTINENTAL ORE COMPANY

BY



BY

APPROVED:



DIVISION  
MANAGER



Defendant Union Carbide Exhibit No. 2-1--(Continued)

# ELECTRO METALLURGICAL SALES CORPORATION

*Unit of Union Carbide and Carbon Corporation*

Carbide and Carbon Building **UCC** 30 East 42nd Street, New York 17, N. Y.

**"ELECTROMET" FERRO-ALLOYS, METALS, AND OTHER METALLURGICAL PRODUCTS**

## PRICE SCHEDULE

### VANADIUM OXIDE (FUSED)—EASTERN ZONE

#### Analysis:

Vanadium Oxide ( $V_2O_5$ )	86-89%
Sodium Oxide ( $Na_2O$ )	10% approximately
Calcium Oxide ( $CaO$ )	2% approximately

CONTRACT PRICE—Effective November 8, 1943

In Any Quantity ..... \$1.10

Price is per pound of vanadium oxide ( $V_2O_5$ ) contained in the compound. Delivery is f.o.b. carrier at works or warehouses of the Seller with transportation charges not exceeding railroad freight allowed to destination. Terms are net cash thirty (30) days from date of invoice.

NON-CONTRACT PRICE is \$.05 higher than above price, and is subject to change without notice.



**DEFENDANT U EXHIBIT 2-R**

**Nisley & Wilson Vanadium Mill  
Gateway, Colorado**

**Mr. Paige Edwards  
Metals Reserve Company  
Monticello, Colo.**

**July 9, 1943**

**Dear Mr. Edwards:**

Enclosed please find copies of letters sent to John Hill regarding continuation of the Toll Agreement. We have asked for an extension of the present arrangement.

Sincerely yours,

**NISLEY & WILSON,  
/s/ FRANK NISLEY JR.**

[Pencil Notes: Other Metals. Refer Hill's Letter 7/13/43. Agreement for 6 months from July 1st.— Hill's Letter 7/16/43. Recov. to date 72%. 1—2% in amount excell. product.]

2438 *Continental Ore Company, et al., vs.*

Defendant U Exhibit 2-R--(Continued)

Nisley & Wilson Vanadium Mill  
Gateway, Colorado

Mr. John Hill

July 8, 1943

Supervising Engineer

Metals Reserve Company

Grand Junction, Colorado

Dear Mr. Hill:

We are submitting a report of our costs per pound of  $V_2O_5$  produced during the month of June which we think is a representative cost of our operation. These costs very closely compare with the costs which we presented to Mr. Burwell and Mr. Whitaker at the time the Toll Agreement was drawn up.

Although we have not been able to reach our capacity due to explanation shown in letter enclosed, we are satisfied to continue under the same terms and conditions as specified in the Toll Agreement dated January 26th, 1943, which we are now operating under. We feel that the extension of the Toll Agreement should continue the operation for as long as the Metals Reserve Company is purchasing ores in the Gateway District.

We would appreciate your immediate attention to this matter.

Sincerely yours,

NISLEY & WILSON,  
/s/ FRANK NISLEY JR.

**Defendant U Exhibit 2-R—(Continued)**

**Nisley & Wilson Vanadium Mill  
Gateway, Colorado**

**Costs—Month of June**

Pounds of $V_2O_5$ sacked & Shipped to Metals Reserve Co.....		8,791.98
Pounds of $V_2O_5$ in Red Cake July 1 1422		
Pounds of $V_2O_5$ in Red Cake June 1 300		
	1122	1,122.00
		<hr/> 9,913.98
	Total	Cost
Plant operating costs .....	\$5852.08	per lb.
Plus fusing & finishing cost		
1122 lbs. Red Cake.....	56.10	
	<hr/> \$5908.18	59.5
Management .....	500.00	5.04
Interest & Depreciation.....		7.00
Taxes & Insurance.....		.83
Misc., Transportation & Communication.....		3.01
		<hr/> 75.38
Mill Rental & Profit.....		5.14

Costs Based on June Production. Heads of 1.948  
%  $V_2O_5$  @ 80.52c per lb. treatment charge.

**2440**     *Continental Ore Company, et al., vs.*

**DEFENDANT U EXHIBIT 2-U**

[Letterhead of Nisley & Wilson Vanadium Mill]

**Mr. Henry J. Leir**

**December 13, 1943**

**Continental Ore Company**

**New York, New York**

**Dear Mr. Leir:**

We have been informed by the United States Vanadium Corporation as Agents for Metals Reserve Company that the present contract with them will not\* be renewed after the expiration date of January 1, 1944. The M.R.C. have about 3500 tons of raw ore stockpiled at our plant at the present time. We do not know yet what will be done with it.

The trend in this section is for the Metals Reserve Company to relinquish ore buying contracts and drop out of the ore buying business. Control of production is to be returned to individual companies.

The most serious problem which will arise out of the change of control, as far as the production of vanadium is concerned, is the buying of vanadium ores. The M.R.C. have raised the price of ore to such a high level that it will make the cost of the finished product 20c over the old price of \$1.10. It will not be possible at the present time at least to buy the crude ore at the prices existing before the M.R.C. began buying ore. The M.R.C. raised the raw ore price from the old level of 21c

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\*Underscored in pen.

Defendant U Exhibit 2-U—(Continued)

to 31c per pound of contained  $V_2O_5$ . The hauling price was also raised on the ore. The raises will amount to about 20c per pound of recovered vanadium pentoxide. This raise can be readjusted in time but at present labor is scarce and also costs more per ton of ore produced. The raise in ore price is the only serious problem which we see in the way of production.

We would appreciate any information which you may be able to give us concerning a market for the vanadium after the first of the year and also the price. We would like to formulate plans as soon as possible for the change in operation.

We appreciate very much your past cooperation and sincerely hope that plans can be made for an operation which will be of mutual benefit.

Sincerely yours,

NISLEY & WILSON,  
/s/ FRANK NISLEY JR.

[Pencil Notes: a.1 in flakes ground 1/16". b.1  
1.10 \$ Basis 1%  $Na_2O$ .]

DEFENDANT U EXHIBIT No. 2-Y

[Letterhead of Nisley & Wilson Vanadium Mill]

Mr. Henry John Leir

May 15, 1944

Continental Ore Company

500 Fifth Avenue

New York City

Dear Mr. Leir:

Since I have been called to service in the Navy and leave day after tomorrow, I thought it best to write you a note regarding the status of the mill.

For the time being Mr. Wilson, Mr. Gardner and myself have decided to leave the mill intact pending future developments. Mr. Wilson intends to go to other work. Mr. Gardner therefore will look after the plant. Should anything of interest develop I would suggest that you contact Mr. Gardner at Glenwood Springs. As you know Mr. Gardner is doing other work and has kept the chemist, who was with us since the mill started and who is familiar with the plant operation, with him. The plant could be operated again should the occasion demand on fairly short notice.

There is one other matter which should be straightened out. As you know we had some drums on hand which belong to you. At the time we started production under the M.R.C. program you will remember that you had an order for our production thru the M.R.C. We wrote you concerning the matter and your Company write us that we

Defendant U Exhibit No. 2-Y—(Continued)

could use the drums to ship the material in. Later however the program was changed. However our material was stored in your drums. Since you did not take the material, the drums were stored in the warehouse in Grand Junction. A few days ago the M.R.C. shipped the material from Grand Junction. I informed Mr. Hill again that the drums were your property. He asked me that we find out the price on the drums and they would pay for them if it would be alright instead of returning them as the cake is to be stored and therefore will not be removed from them except by special demand. If it is alright with you to accept cash for them and if you will send us the price on them we will collect for them and send you the check. We still have some of the drums stored at the plant. If you will write to Mr. Wilson at Gateway immediately telling us what you wish done about the matter, he will take care of it, either returning drums to you or preferable paying for them. Mr. Wilson will be at the plant for a week or two yet.

Sincerely yours,

NISLEY & WILSON,

/s/ FRANK NISLEY JR.

**2444**    *Continental Ore Company, et al., vs.*

**DEFENDANT U EXHIBIT No. 3-C**

**[Envelope]**

Postmarked: Houston, Texas, 3 P.M., October 8,  
1944. Free.

From Frank Nisley Jr., (Sic) Co. 40 S-1 N.T.S.,  
University of Houston, Houston, Texas.

Addressed to: Mr. H. J. Leir, Continental Ore  
Company, 500 Fifth Avenue, New York City, New  
York.

(Copy)

U. S. Navy—E.E. & R.M.

University of Houston, Houston, Texas

Mr. Leir

10/8/44

c/o Continental Ore Company  
500 Fifth Avenue  
New York City

Dear Mr. Leir:

Last week Mr. Wilson wrote me regarding the Gateway plant. As you may know Mr. Gardner isn't interested in operating it himself. He is interested in contracting and that keeps him busy.

I'm sort of helpless in the situation at least until the war is over. The question bothering Mr. Wilson was what to do about the plant, and whether we should attempt to hold it intact until later on, or should it be salvaged and expenses connected with the plant stopped thereby.

Before I attempt to make a decision as to where I stand, I would like very much to have your opin-



Defendant U Exhibit No. 3-C—(Continued)

ion on the outlook for a market for vanadium after the war. Does the picture look at all favorable for a return to normal or to the condition existing just prior to the war?

Personally, if there is a chance to have anywhere near the same conditions as existed just prior to the Metal Reserve Company's entrance into the picture, I would very much like to continue the Gateway operation and with average chances, I feel confident we could have a very steady and profitable operation.

Harry Gardner has suggested in the past a way by which we could bring the business under one ownership entirely whereby we could charge the plant as we saw fit. This would clear the old Gateway alloys entirely from the picture.

Mr. Balsley wrote me a few days ago and he mentioned in his letter about a new program affecting uranium which was being put into effect by the government. He is quite concerned over the way Sec. Ickes is removing Grand country area from filing rights.

I have been going to school since leaving Great Lakes and expect to be in school for at least 8 more months. The course is rather a fast one and quite general. We get electricity as well as radio, sound equipment, radar, and all related subjects. We spend from 7:30 in the morning until 9:30 at night in school with little time in between except

**Defendant U Exhibit No. 3-C—(Continued)**

for meals. This climate is very warm but other than that we can't complain.

Would surely appreciate your opinion as to the possibilities of a vanadium industry or market for vanadic oxide after the war if you find time to write.

Sincerely,

FRANK NISLEY, JR.

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**DEFENDANT U EXHIBIT No. 3-Q**

North Continent Mines, Inc.

July 14, 1942

231 South La Salle Street

Chicago, Illinois.

Gentlemen:

Attention: Mr. W. P. Hendricks.

Re: Vanadium Concentrates.

We should like to refer to our conversation of yesterday, and to thank you very much for the courtesies extended to the writer.

We informed you that since the Apex Smelting Company is at present unable to carry on their ferro department because of urgent Government commitments, we have made arrangements to continue this business in a plant located on Long Island, near New York City.

We understand that the necessary changes in your plant will be completed shortly, so that you

**Defendant U Exhibit No. 3-Q—(Continued)**

will be in a position to deliver the regular vanadic acid 85%, instead of iron vanadate, as you do now.

In this connection, we informed you of our present price schedule for regular vanadic acid, which is as follows:

**Monthly Deliveries**

Less than 3,000 lbs.....	\$1.10 per lb. $V_2O_5$
Between 3,000 & 10,000 lbs....	1.12½ per lb. $V_2O_5$
Between 10,000 & 20,000 lbs...	1.15 per lb. $V_2O_5$

f.o.b. producers shipping point.

The moment you start shipments of vanadic acid, the prices mentioned above will, of course, also be applied to your deliveries.

During the interim, we agreed to pay you for your iron vanadate the minimum price provided in the above schedule, that is \$1.10 f.o.b. your shipping point.

The address of our plant is as follows:

Continental Ore Corporation  
51-40 Manila Street  
Winfield  
Long Island, N. Y.

The address to be notified is:

Continental Ore Corporation  
500 Fifth Ave.  
New York, N. Y.

We leave it up to you whether shipments are made by rail or truck. If by rail, routing should be as follows:

Long Island Railroad Delivery.

Defendant U Exhibit No. 3-Q—(Continued)

As to terms of payment, we asked you to let us know your wishes, and expect to hear from you in this respect.

We are enclosing photostatic copy of our general license to process vanadium, which, of course, will be supplemented each month by the allocation from the War Production Board, as heretofore.

In order to be able to make the necessary applications in time and to contact our customers regarding the sale of the finished product, we would appreciate your informing us between the tenth and fifteenth of each month as to the quantities you expect to have available for shipment during the following month.

We are convinced that our direct relationship with you will prove to be pleasant and satisfactory for all parties concerned.

Very truly yours,

CONTINENTAL ORE CORPORATION,  
Martin Wolf.

mw/o  
enc.

P.S. Regarding allocation for August, we noted that you will have between 10,000 and 12,000 lbs.  $V_2O_5$  available next month, and we therefore are applying to the WPB for 12,000 lbs.  $V_2O_5$  from you during August.

**DEFENDANT U EXHIBIT No. 4-A**

Nisley & Wilson

August 3, 1942

Vanadium Mill

Gateway, Colorado

Gentlemen:

We are pleased to inform you that we have received copy of the allocation (the original of which you will receive) issued by the WPB, authorizing you to ship to us 4,500 lbs. V which is equivalent to about 9,500 lbs. of vanadic acid.

We also received your wire reading

"Have shipped by Ringsby Truck to Apex 6507 pounds of vanadic acid. Other 500 pounds can be shipped with approximately 2000 more on August 10 if satisfactory."

for which we thank you.

Because of urgent government work in the aluminum and magnesium field at the Apex Smelting Co. plant in Chicago, we have shifted our ferro-alloys production to our Long Island plant for the duration of the war. We would, therefore, appreciate your making all future shipments to

Continental Ore Corporation  
51-40 Manila Street  
Winfield, Long Island  
New York

The address to be notified is

Continental Ore Corporation  
500 Fifth Avenue  
New York, New York

Defendant U Exhibit No. 4-A—(Continued)

If shipment is made by rail, routing should be as follows:

Long Island Railroad Delivery.

If shipment is made by truck, the value to be specified is \$50 per shipping package (drum or bag). If you ship by rail, please declare value of 5c a lb.

We opened today a letter of credit for the 2,500 lbs. of acid you intend to ship on August 10. We based our figures on a price of \$1.10 per lb.  $V_2O_5$ , f.o.b. Gateway, Colorado. We will make price adjustment as soon as the material is received and we know what quantities will be shipped during August.

As you will see from the letter of credit, we stipulated that you have to present

our certificate of weight (plant's weighmaster)  
Ledoux' certificate of analysis

for payment.

We trust that this arrangement is satisfactory to you. (We talked to Ledoux and they informed us that they require three days for an analysis of  $V_2O_5$ .)

Very truly yours,

CONTINENTAL ORE CORPORATION,  
Martin Wolf.

mw/sk

*Union Carbide & Carbon Corp., et al.* 2451

DEFENDANT U EXHIBIT No. 4-H

[Letterhead of Continental Ore Company]

May 4, 1943

Electro Metallurgical Sales Corp.  
Alloy, West Virginia

Gentlemen:

Re: 178 bags Fused Vanadium Oxide

Your order number 24892

Thank you for your shipping advice of April 30 regarding the above shipment made to our address at Langeloth, Pa.

We would very much appreciate your kindly giving us the complete analysis of each of the three lots.

We would also appreciate your attaching copy of the bill of lading to your invoice as we need it for our bookkeeping department.

Thank you for your kind attention.

Very truly yours,

CONTINENTAL ORE COMPANY,  
/s/ MARTIN WOLF,  
Manager.

M. Wolf/sk  
5/17

[Pencil Note: 5/17 — Harrison has asked the mine to send a shipping notice giving Su, Insolubles, and  $V_2O_5$ ]

2452     *Continental Ore Company, et al., vs.*

**DEFENDANT U EXHIBIT No. 4-R**

(Copy)

Metals Reserve Company  
Washington, D. C.

Mr. M. Wolf

August 4, 1944

Continental Ore Company  
500 Fifth Avenue  
New York 18, New York

Dear Mr. Wolf:

Please refer to your letter of July 25, 1944, inquiring about vanadium pentoxide.

Our stockpile of Fused Vanadium Oxide at East St. Louis consists of three analyses of  $V_2O_5$ ; viz, 85.22%—85.06%—87%, all in the form of flakes and if any of this material is of interest to you we shall be pleased to receive your offer for a given quantity.

For your information, we no longer have the material in Colorado which was at one time of interest to you.

Very truly yours,

E. L. MURPHY.

Mr. Wolf

Let us discuss this on the phone.—Should we not buy say 5 tons for the purpose of filling our several trial orders. I have a feeling, that we could buy this material at 1.00 Doll fob East St. Louis.

How can we find out, how much of it is in stock?



**Defendant U Exhibit No. 4-R—(Continued)**

**Metals Reserve Company**  
**Washington 25, D. C.**

**Continental Ore Company**  
**500 Fifth Avenue**  
**New York, New York**

**Sep. 20, 1944**

**Gentlemen:**

Subject to the terms and conditions of the contract enclosed herewith in duplicate, Metals Reserve Company will sell to you approximately 4,353 pounds of vanadium pentoxide ( $V_2O_5$ ) contained in approximately 5,049 pounds of fused vanadium oxide, dry basis, at the price of \$1.10 per pound of contained vanadium pentoxide ( $V_2O_5$ ), to be delivered f.o.b. railroad cars at your plant, Winfield, Long Island, New York promptly upon receipt of your shipping instructions satisfactory to this Company.

Both copies of the contract should be executed by an authorized officer of your Company with its corporate seal affixed thereto and returned to this office, upon receipt of which an executed copy will be promptly forwarded to you. The date of the contract will be inserted at the time of its execution by Metals Reserve Company.

Certified check covering preliminary payment and shipping instructions should be forwarded to the Traffic Manager, Metals Reserve Company, Wash-

Defendant U Exhibit No. 4-R—(Continued)

ington 25, D. C., who will, upon receipt of same, arrange the details for delivery of the material.

Sincerely yours,

/s/ S. D. STRAUSS,  
S. D. Strauss,  
Vice President.

Metals Reserve Company  
Washington, D. C.

CONTRACT

Seller: Metals Reserve Company, 811 Vermont Avenue, N. W., Washington 25, D. C. (hereinafter called "Seller"), agrees to sell and deliver,

Buyer: Continental Ore Company, 500 Fifth Avenue, New York, New York (hereinafter called "Buyer"), agrees to buy and receive,

Material: Fused Vanadium Oxide (hereinafter called "Oxide"), containing 86.22% vanadium pentoxide ( $V_2O_5$ ).

Quantity: Approximately 4,353 pounds of vanadium pentoxide ( $V_2O_5$ ) contained in approximately 5,049 pounds of oxide, dry basis.

Delivery: The oxide is available for prompt shipment from Seller's East St. Louis, Illinois stockpile and shall be delivered f.o.b. railroad car Buyer's plant at 51-40 Manila Street, Winfield, Long Island, New York, upon receipt of preliminary payment provided for hereinafter and sub-

**Defendant U Exhibit No. 4-R—(Continued)**

ject to Buyer's promptly furnishing shipping instructions satisfactory to Seller.

**Price:** One Dollar Ten Cents (\$1.10) per pound of contained vanadium pentoxide ( $V_2O_5$ ).

**Weights:** Weights as determined upon arrival of the oxide at Buyer's plant by Ledoux & Company, Inc., New York, New York shall be conclusive as to quantity, the cost of such weighing to be divided equally between Buyer and Seller:

**Sampling, Moisture Determination and Analysis:** The oxide has been sampled and analyzed and the moisture determined in accordance with the usual practice by Ledoux & Company, Inc., whose analysis shall be conclusive as to quality. Cost of such sampling, analysis and moisture determination shall be borne equally by Buyer and Seller.

**Payment:** Preliminary payment of \$4,313.14 shall be made to Seller prior to delivery, with final payment and adjustment, if any, to be made promptly upon receipt of Seller's invoice, with certificates of weights and analysis attached.

**Force Majeure:** If the performance of any part of this Contract by either Seller or Buyer is prevented, hindered or delayed by reason of any cause or causes beyond the control of Seller or Buyer, then the Seller or Buyer, as the case may be, shall be excused from such performance during the continuance of any such happenings or events.

Defendant U Exhibit No. 4-R—(Continued)

Congressional Clause: No member of or delegate to the Congress of the United States shall be admitted to any share or part of this Contract or to any benefit arising therefrom, but this provision shall not be construed to extend to this Contract if made with a corporation for its general benefit.

Cancellation: Notwithstanding any other provision hereof this Contract may be canceled by Seller with respect to any oxide remaining undelivered after October 31, 1944.

Executed in Duplicate.

Dated: September 26, 1944.

METALS RESERVE COMPANY,  
(Seller)

/s/ By S. D. STRAUSS,  
Vice President.

(Seal)     CONTINENTAL ORE COMPANY,  
(Buyer)

/s/ By HENRY J. LEIR,  
Henry J. Leir, Gen. Partner.

MR C-1 S-1477 (Vanadium)

DEFENDANT U'S EXHIBIT "4-T"

November 1, 1944

Imperial Paper & Color Corporation  
Pigment Color Division  
Glens Falls, N. Y.

Att: Mr. A. F. Brown, General Manager

Re: Metals Reserve's Vanadium Stocks

Gentlemen:

We refer to your recent visit here, when you wanted to get an idea as to the quantities of vanadium at present held by Metals Reserve Company, or other government agencies.

Unfortunately, these figures are not readily available, but as far as we can ascertain, the stocks at the beginning of this year were approximately as follows:

\*Ferro Vanadium: About 500,000 pounds V in the form of 40% ferro vanadium.

\*Vanadium Pentoxide: About 1,500,000 pounds V in the form of 85%  $V_2O_5$ .

Lead Vanadate: About 160,000 pounds V contained.

We heard, however, that these stocks were recently reduced by reason of the fact that the Vanadium Corporation of America,\*\* in order to fill some

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\*[Note: Marginal note "x Wall Street Journal July 17, 1944."]

\*\*[Note: Marginal note "xx Mirel Oct. 28, 1944".]

Defendant U's Exhibit "4-T"—(Continued)

export orders for ferro vanadium, bought 250,000 pounds of V contained in vanadium pentoxide from Metals Reserve, so that present stocks of vanadium pentoxide should be reduced to about 1,250,000 pounds, if not lower.

These figures are arrived at on the basis of various, scattered information, and as soon as more precise data are available, we will of course let you know.

Very truly yours,

CONTINENTAL ORE COMPANY,

Manager.

M Wolf

SG

# ELECTRO METALLURGICAL SALES CORPORATION

Unit of Union Carbide and Carbon Corporation



DISTRIBUTORS "ELECTROMET" BRAND

FERRO-ALLOYS, METALS, AND OTHER ELECTRO METALLURGICAL PRODUCTS

## District Offices

Brown-Marx Building, Birmingham 3, Ala.  
Carbide and Carbon Building, Chicago 1, Ill.  
Union Commerce Building, Cleveland 14, Ohio  
Oliver Building, Pittsburgh 22, Pa.  
Adam Grant Building, San Francisco 4, Calif.

CARBIDE AND CARBON BUILDING  
30 EAST 42ND STREET, NEW YORK 17, N. Y.

January 29, 19 46

ELECTRO METALLURGICAL SALES CORPORATION agrees to sell and  
of New York, New York

## Continental Ore Company

agrees to buy Buyer's domestic manufacturing requirements of the following material for delivery in  
as nearly equal monthly quantities as practicable at the respective prices, terms and conditions set forth in this agreement  
which shall continue until terminated by either party giving not less than six (6) months' prior written notice to the other party.

## VANADIUM PENTOXIDE

## EASTERN ZONE

PRICE: Any Quantity

\$1.10

Requirements estimated to be approximately  
1000 lbs. per month.

Prices are per pound of vanadium pentoxide ( $V_2O_5$ ) contained in the compound.  
Delivery is f.o.b. carrier at works or warehouses of the Seller with transportation charges not exceeding railroad freight allowed to destination. The boundaries of the established price zones are shown on the reverse hereof.  
Terms are net cash thirty (30) days from date of invoice.

The prices which are in effect may be revised by the Seller at the beginning of any calendar quarter year by giving not less than fifteen (15) days prior written notice to the Buyer. Such revised prices shall become effective at the beginning of such calendar quarter year and shall remain in effect until again revised in the manner hereinbefore provided. If any such revised prices are not acceptable to the Buyer, the Buyer may cancel future tonnage contracted for hereunder to which such revised prices apply by giving written notice to the Seller not less than ten (10) days prior to the beginning of such calendar quarter year.

Deliveries are subject to strikes, riots, war, governmental acts and regulations, fires, explosions, accidents, acts of God, delays in procuring sufficient or suitable raw materials, delays of carriers, curtailment of or failure in obtaining sufficient electrical power and other similar or dissimilar contingencies affecting the Seller or the manufacturer of the material and beyond its reasonable control.

During any time in which the Seller is not satisfied with the Buyer's financial responsibility the Seller may change the above terms of payment or suspend deliveries.

The Buyer shall pay all existing and future taxes imposed by reason of sale or delivery under this agreement.

The benefits and obligations of this agreement shall extend to the successors and assigns of the respective parties.

This agreement shall not be effective until approved by an officer or manager of the Seller and when so approved shall supersede all prior agreements covering the same material. No change in or addition to the terms hereof shall be made unless approved in writing by an officer or manager of the Seller, and an authorized representative of the Buyer.

ELECTRO METALLURGICAL SALES CORPORATION

ACCEPTED:

BY

APPROVED:

Secretary

For use, in connection with Uniform Domestic Straight Bill of Lading adopted by Carriers in Official, Southern, Western and Illinois Classification territories, March 18, 1902, as amended August 1, 1930 and June 18, 1941 (Prescribed by the Interstate Commerce Commission.)

**THIS MEMORANDUM**

RECEIVED, subject to the usual conditions and tariffs.

acknowledgment that a B  
covering the property  
is the date of the receipt

valuing has been issued herein and is interior of the property.

not the original Bill of Lading nor a copy or  
for filing or record.  
the Original Bill of Lading.

[illegible]

From **ELECTRO METALLURGICAL COMPANY** At Niagara Falls, N. Y. Agent's No. \_\_\_\_\_

By RED STAR  
CUSTOMERS ORDER NO.

SEAL NO.

Company

DATE SHIPPED \_\_\_\_\_

19

**OUR ORDER NO.**

Consigned  
to and  
Destination

CONTINENTAL ORE CORPORATION  
ATTN: MR. M. WOLF  
500 FIFTH AVENUE  
NEW YORK NEW YORK

Route

Car Initial  
Car No

<b>Number Package</b>	<b>DESCRIPTION, SPECIAL MARKS AND EXCEPTIONS</b>	<b>WEIGHT (Subject to Corr.)</b>	<b>CLASS or RATE</b>	<b>CHECK</b>
	<p style="text-align: center;">6017</p> <div style="position: absolute; bottom: 20px; right: 20px;"><b>MAY 22 1945</b></div>		61	

This Shipment is Correctly Described  
Correct Weight is \_\_\_\_\_ lbs.  
Subject to Verification by the TRUNK LINE  
**FREIGHT INSPECTION BUREAU.**  
According to Agreement No. 188  
**ELECTRO METALLURGICAL CO.**  
Per \_\_\_\_\_ Shipper

Subject to Section 7 of conditions, if this shipment is to be delivered to the consignee without recourse on the consignor, the consignor shall sign the following statement:

The carrier shall not make delivery of this shipment without payment of freight and all other lawful charges.

(Structure of analysis.)

If charges are to be prepaid, write or stamp here, "To be Prepaid."

Received \$ 100.00  
to apply in prepayment of the  
charges on the property de-  
scribed herein.

**g/Agent or Cashier**

The signature here acknowledges  
(by the amount owed.)

Charges advanced

NOTE: Where the rate is dependent on cargo, the carrier is required to state specifically in writing the agreed or declared value of the property. The agreed or declared value of the property is hereby specifically stated by the shipper to be not exceeding \$5000.00

ELECTRO METALLURGICAL COMPANY, Shipper, Per

Permanent post-office address of shipper, Niagara Falls, N. Y.

UN-434-A • Dithalorma

Agent

Per H. J. Baker

0913



DEFENDANT U'S EXHIBIT "4-Z"

January 29, 1946

Continental Ore Company  
500 Fifth Avenue  
New York 18, New York

Attention: Mr. M. Wolf, Manager

Gentlemen:

In compliance with your request we are enclosing herewith our standard form of agreement covering your requirements of vanadium pentoxide. We have left blank the quantity you estimate that you may require so that you may fill in that amount estimated to be your approximate monthly requirements.

If you will please sign both copies of the agreement and return them to us we shall be glad to return an approved copy for your files.

Very truly yours,

ELECTRO METALLURGICAL  
SALES CORPORATION,

Secretary.

WEV:IMD

Encs.

[Note: Contract attached is the same as Exhibit U-4X.]

## OFFICE OF PRICE ADMINISTRATION

(Document No 23486)

## PART 1408—FERRO ALLOYS

(MPR 489)

## TUNGSTEN, MOLYBDENUM, VANADIUM, COBALT, AND CERTAIN OTHER ALLOYS AND METALS

In the judgment of the Price Administrator it is necessary and proper to establish maximum prices for sales of tungsten, molybdenum, vanadium, cobalt, and certain other alloys and metals by a specific maximum price regulation. The Price Administrator has ascertained and given due consideration to the prices of tungsten, molybdenum, vanadium, cobalt, and certain other alloys and metals covered by this regulation prevailing between October 1 and October 18, 1941, and has made adjustments for such relevant factors as he has determined and deemed to be of general applicability. So far as practicable, the Price Administrator has advised and consulted with representative members of the industries which will be affected by this regulation.

In the judgment of the Price Administrator the maximum prices established by this regulation are and will be generally fair and equitable and will effectuate the purposes of the Emergency Price Control Act of 1942, as amended. A statement of the consideration involved in the issuance of this regulation is issued simultaneously herewith and has been filed with the Division of the Federal Register.

Such specifications and standards as are used in this regulation were, prior to such use, in general use in the trade or industry affected.

§ 1408.154 Maximum prices for tungsten, molybdenum, vanadium, cobalt, and certain other alloys and metals. Under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order No. 9250 and 9338, Maximum Price Regulation No. 489 (Tungsten, Molybdenum, Vanadium, Cobalt, and Certain Other Alloys and Metals), which is annexed hereto and made a part hereof, is hereby issued.

APPROVED: § 1408.154 issued under Pub. Law 431 and 77th Cong., H.O. 9380, 7 P.R. 7971, H.O. 9338, 8 P.R. 6881

\* Copies may be obtained from the Office of Price Administration

## MAXIMUM PRICE REGULATION 489—TUNGSTEN, MOLYBDENUM, VANADIUM, COBALT, AND CERTAIN OTHER ALLOYS AND METALS

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SECTION 1 Maximum prices for tungsten—(a) Ferrotungsten. The maximum prices for ferrotungsten shall be determined by using the maximum base prices and premiums, where applicable, set out below:

## (1) Analysis of standard grade

	Percent
Tungsten	70-85
Carbon, maximum	0.60
Phosphorus, maximum	0.10
Sulphur, maximum	0.10
Silicon, maximum	1.00
Manganese, maximum	0.75
Copper, maximum	0.10
Arsenic, maximum	0.10
Antimony, maximum	0.05
Tin, maximum	0.20
Sum of tin, copper, arsenic, phosphorus, and sulphur, maximum	0.45

(2) Maximum base prices for standard grade ferrotungsten. The maximum prices per pound of contained tungsten for standard grade ferrotungsten, lump or  $\frac{1}{4}$  X down, packed, f. o. b. producer's plant at Niagara Falls, New York, Washington, Pa., or York, Pa., shall be:

10,000 pounds or more	\$1.90
2,000 to 10,000 lbs	2.00
100 to 2,000 lbs	2.10
Less than 100 lbs	2.15

(3) Premiums—(1) Cracking to a specified mesh. The highest premium for cracking to a specified mesh size which the seller charged during January, February or March 1942, may be added to the above prices. (This does not apply to  $\frac{1}{4}$  X down.)

(2) Special analysis. Premiums not exceeding 25 cents per pound of contained tungsten may be added to the above base prices for ferrotungsten of special analysis. By "special analysis" is meant an analysis varying substantially from the analysis for the standard grade, set forth above, and supplied at the request of and for the convenience of the buyer.

(b) Other tungsten products. The maximum prices for the tungsten products listed below shall be, except as otherwise provided in section 11, (1) the highest prices charged for such products by a seller on a delivery made during January, February or March 1942 to a purchaser of the same class, or (2) if the seller cannot make this determination on the basis of a delivery, the highest prices which the seller quoted for delivery of such products during January, February or March 1942 to a purchaser of the same class.

If the seller cannot determine his maximum prices under either of the above provisions, his maximum price shall be subject to the approval of the Administrator, as set forth in section 7 of this regulation.

The following tungsten products are covered by this paragraph:

Tungsten metal powder  
Tungsten carbide powder  
Tungstic acid  
Tungstic oxide  
Ammonium para-tungstate  
Sodium tungstate  
Calcium tungstate  
Other alloys and compounds of tungsten which are consumed principally by the metallurgical industry

(c) Tungsten ores and concentrates. Tungsten ores and concentrates are exempt from the provisions of this regulation and the General Maximum Price Regulation.

\* B. For general terms see section 6 below

SEC. 2 Maximum prices for molybdenum—(a) Ferromolybdenum, molybdic oxide and calcium molybdate. The maximum prices per pound of contained molybdenum for any quantity of ferromolybdenum, molybdic oxide and calci-

um molybdate suitable for steel or iron manufacture, packed f o b producer's plant shall be

Ferromolybdenum	\$0.80
Molybdenum oxide technical (powder or briquetted)	\$0.80
Selenium molybdate	\$0.80

(c) **Other molybdenum products.** The maximum prices for the molybdenum products listed below shall be, except as otherwise provided in section 11, (1) the highest prices charged for such products by a seller on a delivery made during January, February or March 1942 to a purchaser of the same class, or (2) if the seller cannot make this determination on the basis of delivery, the highest prices which the seller quoted for delivery of such products during January, February or March 1942 to a purchaser of the same class.

If the seller cannot determine his maximum prices under either of the above provisions, his maximum price shall be subject to the approval of the Administrator, as set forth in section 7 of this regulation.

The following molybdenum products are covered by this paragraph:

- Molybdenum metal powder
- Molybdenum carbide powder
- Molybdic acid
- Molybdenum trioxide
- Molybdenum silicide
- Selenium molybdate
- Ammonium molybdate
- Other molybdenum alloys and compounds which are consumed principally by the metallurgical industry

(c) **Molybdenum ores and concentrates.** Molybdenum ores and concentrates are exempt from the provisions of this regulation and the General Maximum Price Regulation.

N B For general terms see section 8 below

**Sec 3 Maximum prices for vanadium.** (a) **Ferrovandium.** The maximum prices per pound of contained vanadium for standard crushed sizes of the grades and analysis of ferrovandium shown in any quantity, f o b Niagara Falls, N Y or Bridgeville, Pa. with freight allowed to destination on quantities of 25 pounds or over, up to but not in excess of the freight rates from the basing point to St. Louis, Missouri, shall be determined by using the following maximum base prices and premiums where applicable:

(1) **Maximum base prices**

Grade	Analysis			Prices	
	Percent V minimum	Percent V maximum	Percent C maximum	Contract	Spot
A. Open hearth	30.12.00	3.50	02.70	\$2.80	\$2.80
B. Crucible	35.4.00	1.00	2.80	2.80	2.80
C. Prime	35.1.50	20	2.80	2.80	2.80

(2) **Premiums for crushing.** The standard crushing sizes for all grades of ferrovandium are from lump size down to and including 20 mesh X down

Premiums per pound of contained vanadium may be added to the above base prices for crushing or grinding to smaller sizes as follows:

Quantity	10 mesh	40 to 100 mesh	150 or 200 mesh
	X down	X down	X down
Crushed lumps	\$0.08	\$0.04	\$0.06
Top lots	\$0.08	\$0.04	\$0.06
Less than top lots to 250 lbs	\$0.08	\$0.10	\$0.12
Less than 250 lbs	\$0.10	\$0.20	\$0.25

(b) **Vanadium pentoxide.** The maximum prices per pound of contained V<sub>2</sub>O<sub>5</sub> for air dried or fused vanadium pentoxide, f o b Niagara Falls, N Y or Bridgeville, Pa., with freight allowed to destination on quantities of 25 pounds or over, up to but not in excess of the freight rate from the basing point to St. Louis, Missouri, shall be determined by using the following maximum base prices and premiums, where applicable:

- (1) Maximum base contract price, any quantity..... \$1.10
- (2) Maximum base spot price
- |                               |      |
|-------------------------------|------|
| 500 lbs. and over             | 1.15 |
| Less than 500 lbs. to 10 lbs. | 1.20 |
| Under 10 lbs.                 | 1.25 |

(3) **Premiums for crushing.** The standard crushed size for air dried vanadium pentoxide is powdered, and standard crushed sizes for fused vanadium pentoxide are 3/4" X down, 1/2" X down and 1/4" X down. Premiums per pound of V<sub>2</sub>O<sub>5</sub> contained may be added to the above base prices for crushing or grinding to smaller sizes as follows:

Quantity	8 mesh X down	20 mesh X down
Top lots	\$0 015	\$0 017
Less than lots down to 200 lbs	02	03
Less than 200 lbs	00	04

(c) **Other vanadium products.** The maximum prices for the vanadium products listed below shall be, except as otherwise provided in section 11, (1) the highest prices charged for such products by a seller on a delivery made during January, February or March 1942 to a purchaser of the same class, or (2) if the seller cannot make this determination on the basis of a delivery, the highest prices which the seller quoted for delivery of such products during January, February or March 1942 to a purchaser of the same class.

If the seller cannot determine his maximum prices under either of the above provisions, his maximum price shall be subject to the approval of the Administrator, as set forth in section 7 of this regulation.

The following vanadium products are covered by this paragraph:

- Vanadium metal
- Vanadium metal powder
- Vanadium silicide
- Vanadium chloride
- Sodium ortho vanadate
- Ammonium meta vanadate
- Other vanadium alloys and compounds which are consumed principally by the metallurgical industry

(d) **Vanadium ores and concentrates.** Vanadium ores and concentrates are exempt from the provisions of this regulation and the General Maximum Price Regulation.

N B For general terms see section 8 below

**Sec 4 Maximum prices for cobalt.**

(a) **Cobalt metal sold to a metallurgical user.** The maximum price per pound of cobalt metal containing a minimum of 97% cobalt, packed f o b producer's plant, with freight allowed to destination on quantities of 25 pounds or more, up to but not in excess of the freight rate from producer's plant to Chicago, Illinois, shall be as follows when sold to a metallurgical user:

Contract	Spot
Kept, 500 to 550 lbs	\$1.50
Came, 100 lbs	1.50
Less than 100 lbs	1.50

For the purposes of this section "metallurgical user" means a person whose principal use of cobalt metal is in the production of steels, carbides and ferrous or non-ferrous alloys.

(b) **Other cobalt products and cobalt metal sold to other users.** The maximum prices for the cobalt products listed below, and for cobalt metal sold to persons other than metallurgical users, shall be, except as otherwise provided in section 11, (1) the highest price charged for such products or metal by a seller on a delivery made during January, February or March 1942 to a purchaser of the same class, or (2) if the seller cannot make this determination on the basis of a delivery, the highest price which the seller quoted for delivery of such products during January, February or March 1942 to a purchaser of the same class.

If the seller cannot determine his maximum prices under either of the above provisions, his maximum price shall be subject to the approval of the Administrator, as set forth in section 7 of this regulation.

The following cobalt products are covered by this paragraph:

- Cobalt metal fines
- Cobalt metal powder
- Cobalt oxides
- Other alloys and compounds of cobalt which are consumed principally by the metallurgical industry

(c) **Cobalt ores, concentrates and crudes.** Cobalt ores, concentrates and crudes are exempt from the provisions of this regulation and the General Maximum Price Regulation.

N B For general terms see section 8 below

**Sec 5 Maximum prices for ferro-**

**phosphorus.** (a) The maximum prices for ferrophosphorus shall be determined by using the maximum base prices and premiums, where applicable, set out below:

# (1) Analysis

	17-19% Grade	20-24% Grade
Phosphorus	Base, 18%, range, 17-19%, Approx. 79%	Base, 24%, range, 20-24%, Approx. 79%
Iron		

(2) **Maximum base prices.** The maximum prices for ferrophosphorus based on the gross weight of the material, f.o.b. producer's plant shall be:

Quantity	17-19% Grade	20-24% Grade
Carload lots, bulk	Per gross ton \$85.00	Per gross ton \$75.00
Carload lots, packed	85.00	75.00
Less than carload lots down to 3 gross tons, packed	75.00	65.00
3 gross tons to 1 gross ton, packed	65.00	55.00
1 gross ton down to 500 lbs., packed	55.00	45.00
500 lbs. down to 100 lbs., packed	45.00	35.00
Less than 100 lbs., packed	35.00	25.00

(3) **Premiums.** To the above base prices may be added the following premiums: (1) For crushing to egg size or smaller—\$10.00 per gross ton in gross ton lots or

	Lump	2" X 1"	1" X 1"	3/4" X 1"	3/4" X 3/4"	3/4" X 3/4"	3/4" X 3/4"
Carload (bulk)	\$0.0025	\$0.0025	\$0.0025	\$0.0025	\$0.0025	\$0.0025	\$0.0025
Ton lots (packed 50 gal. barrels)	1000	1000	1000	1000	1000	1000	1000
Less than ton lots (packed 50 gal. barrels)	1000	1000	1000	1125	1125	1125	1250

(3) **Premiums.** (1) To the above base prices may be added a premium of \$0.005 per pound for spot sales.

(2) For packing ton lots or less in 35 gal. barrels a premium of \$0.0050 per pound may be added.

(b) **Alstifer.** The maximum prices for alstifer shall be determined by using the maximum base prices and premiums, where applicable, set out below:

	Percent approximately
Aluminum	30
Silicon	40
Iron	40

(2) **Maximum base contract prices.** The maximum prices per pound of material, gross weight, f. o. b. Suspension Bridge, N. Y. shall be:

Carload lots (bulk or packed)	\$0.0750
Ton lots (packed)	0800
Less than ton lots (packed)	0850

(3) **Premium.** To the above base prices may be added a premium of \$0.0050 per pound for spot sales.

(c) **Calcium metal.** The maximum prices for calcium metal shall be determined by using the maximum base prices and premiums, where applicable, set out below:

(1) **Maximum base contract prices.** The maximum prices per pound of metal,

over, and \$0.006 per pound in less than gross ton lots (2) For phosphorous content in excess of the base analysis—\$3.00 per gross ton on gross ton lots or over for each 1% of phosphorus, fractions prorated.

(4) **Penalty.** For phosphorus content lower than the base analysis deduct \$3.00 per gross ton on gross ton lots or over for each 1% of phosphorus, fraction prorated.

**Sec. 6. Maximum prices for certain special alloys and metals—(a) Siminal.** The maximum prices for siminal shall be determined by using the maximum base prices and premiums, where applicable, set out below:

	Percent approximately
Silicon	30
Manganese	30
Aluminum	30
Balance being principally iron	

(2) **Maximum base contract prices.** The maximum prices per pound of material, gross weight, f. o. b. producer's plant with freight allowed to destination, up to but not in excess of the freight rate from producer's plant to St. Louis, Missouri, shall be:

	Lump	2" X 1"	1" X 1"	3/4" X 1"	3/4" X 3/4"	3/4" X 3/4"	3/4" X 3/4"
Carload (bulk)	\$0.0025	\$0.0025	\$0.0025	\$0.0025	\$0.0025	\$0.0025	\$0.0025
Ton lots (packed 50 gal. barrels)	1000	1000	1000	1000	1000	1000	1000
Less than ton lots (packed 50 gal. barrels)	1000	1000	1000	1125	1125	1125	1250

packed, f. o. b. Sault Ste. Marie, Michigan, with freight allowed to Mississippi River points and all the area east of the Mississippi River shall be:

	Costs	Turnings
2,000 pounds or more	\$1.00	\$2.00
Less than 2,000 lbs.	2.00	2.00

(2) **Premium.** To the above base prices may be added a premium of \$0.06 per pound for spot sales.

(d) **Calcium silicos.** The maximum prices for calcium silicon shall be determined by using the maximum base prices and premiums, where applicable, set out below:

	Percent
Calcium, approximate	30-35
Silicon, approximate	80-85
Iron, maximum	3.50
or	
Calcium, approximate	30-35
Silicon, approximate	80-85
Iron, maximum	5.00

(2) **Maximum base contract prices.** The maximum prices per pound of material, gross weight, f. o. b. Niagara Falls, N. Y., with freight allowed to destination up to but not in excess of the freight rate

from Niagara Falls N. Y. to St. Louis Missouri, shall be:

	Lump	2" X 1"	1" X 1"	3/4" X 1"	3/4" X 3/4"	3/4" X 3/4"	3/4" X 3/4"
Carload lots	\$0.1000	\$0.1000	\$0.1000	\$0.1000	\$0.1000	\$0.1000	\$0.1000
Gross ton lots	1450	1450	1450	1450	1450	1450	1450
200 lbs. to gross ton	1450	1450	1450	1450	1450	1450	1450
Less than 200 lbs.	1450	1700	1700	1700	1700	1700	1700

(3) **Premium.** To the above base prices may be added a premium of \$0.0025 per pound for spot sales.

(e) **Calcium-manganese-silicon.** The maximum prices for calcium-manganese-silicon shall be determined by using the maximum base prices and premiums, where applicable, set out below:

	Percent approximately
Calcium	10-20
Manganese	14-18
Silicon	50-60
Balance principally iron	

(2) **Maximum base contract prices.** The maximum prices per pound of material, gross weight, f. o. b. Niagara Falls, N. Y., with freight allowed to destination up to but not in excess of the freight rate from Niagara Falls, N. Y. to St. Louis, Mo., shall be:

	Lump	2" X 1"	1" X 1"
Carload lots	\$0.1000	\$0.1000	\$0.1000
Gross ton lots	1450	1450	1450
200 lbs. to gross ton	1450	1450	1450
Less than 200 lbs.	1450	1700	1700

(3) **Premium.** To the above base prices may be added a premium of \$0.0025 per pound for spot sales.

(f) **Other special alloys and metals.** The maximum prices for the special alloys and metals listed below shall be except as otherwise provided in section 11, (1) the highest prices charged for such products by a seller on a delivery made during January, February or March 1942 to a purchaser of the same class, or (2) if the seller cannot make this determination on the basis of a delivery, the highest prices which the seller quoted for delivery of such products during January, February or March 1942 to a purchaser of the same class.

If the seller cannot determine his maximum prices under either of the above provisions, his maximum price shall be subject to the approval of the Administrator, as set forth in section 7 of this regulation.

The following products are covered by this paragraph:

Borasil	Manganese boron
Brium	Silica
Pteroboron	Silica
Pteromanganese-silicon	SiMZ alloy
Grainal alloys	

Other alloys and compounds consumed principally by the metallurgical industry in which boron calcium chromium manga-



ness phosphorus or silicon accounts for a larger part of the material cost than any other constituent element. This provision however does not apply to any material covered by any other section of this regulation or by Revised Maximum Price Regulation #138 (Permanganates and Manganese Alloys and Metals), Maximum Price Regulation #400 (Percollicon and Silicon Metals) and Maximum Price Regulation #407 (Perchromium and Chromium Metals).

N. B. For general terms see Section 8 below.

**Sec 7 Maximum prices for types, grades and sizes of alloys and metals for which maximum prices cannot be established by sections 1 through 6 of this regulation.** If the seller of any type, grade or size of alloy or metal listed in this regulation cannot determine his maximum prices under the provisions of sections 1 through 6, inclusive, he shall submit his proposed maximum price for the approval of the Administrator. This price and an analysis of the material shall be reported within 15 days after delivery and pending approval such price may be paid and received subject to adjustment between the parties if the price is disapproved. A price once reported and approved need not thereafter be reported by the same seller.

Reports called for by this provision shall be made by letter addressed to the Non-Perrous Metals Branch, Office of Price Administration, Washington, D. C. In approving or disapproving a price submitted for approval, the Office of Price Administration will consider whether the price submitted is in line with other maximum prices established by this regulation.

**Sec 8. Terms of general applicability—(a) Credit.** No charge shall be made for extension of credit when payment is made within 30 days of date of invoice.

(b) **No spot premiums on sales to the United States or any agency thereof.** No spot premium may be added on any sale or delivery to the United States or any agency thereof of tungsten, molybdenum, vanadium, cobalt or any of the other alloys or metals covered by this regulation.

**Sec 9 Exemption of sales for laboratory and experimental purposes.** Sales of tungsten, molybdenum, vanadium, cobalt, and the other alloys and metals covered by this regulation shall be exempt from this regulation and the General Maximum Price Regulation when such sales are made for laboratory and experimental uses. For the purpose of this section "sales for laboratory and experimental purposes" means sales of relatively small amounts used for testing, research, sampling or experimental use and covers alloys, metals and compounds already being produced commercially, as well as those produced experimentally and in the process of development.

**Sec 10 Sales by independent warehousemen.** The maximum price at

which an independent warehouseman may sell tungsten, molybdenum, vanadium, cobalt or any of the other alloys or metals covered by this regulation shall be the maximum price at which the quantity and grade sold by him could be sold by a producer for delivery to his warehouse, plus the following differentials or premiums:

	Percent
500 lbs and over	10
Less than 500 lbs down to 100 lbs	15
100 lbs and less	20

The maximum price for independent warehousemen is f o b warehouse with no allowance for freight.

For the purpose of this section "independent warehouseman" means a private seller, other than a manufacturer of tungsten, molybdenum, vanadium, cobalt and other alloys and metals or a subsidiary or affiliate thereof, who renders the service of maintaining a stock of tungsten, molybdenum, vanadium, cobalt, or other alloys or metals for the convenience of buyers who desire to purchase small quantities or to receive quick delivery.

**Sec 11. Maximum prices for certain sellers.** (a) Cleveland Tungsten, Inc., Cleveland, Ohio, may sell or deliver and any person may buy or receive from Cleveland Tungsten, Inc. tungsten metal powder, containing a minimum of 99.7% tungsten and a maximum of 20% alkalis and 02% molybdenum, at a price not in excess of \$5.40 per pound f o b seller's plant.

(b) The S. W. Shattuck Chemical Company of Chicago, Illinois, may sell and deliver, and any person may buy and receive in the course of trade or business from the S. W. Shattuck Chemical Company, technical grade tungstic oxide (WO<sub>3</sub>) at a price not in excess of \$2.58 per pound delivered.

**Sec 12 Applicability of regulation—(a) Geographical.** The maximum prices established by this regulation shall apply to the forty-eight states and the District of Columbia.

(b) **Export sales.** The maximum price at which any person may export tungsten, molybdenum, vanadium, cobalt or any other alloy or metal covered by this regulation shall be determined in accordance with the provisions of the Second Revised Maximum Export Regulation, issued by the Office of Price Administration.

(c) **Import sales and sales of imported tungsten, molybdenum, vanadium, cobalt and other alloys and metals.** Neither this regulation nor the General Maximum Price Regulation shall apply to the importation of tungsten, molybdenum, vanadium, cobalt, and the other alloys and metals listed in this regulation. This regulation shall apply, however, to the sale of all tungsten, molybdenum, vanadium, cobalt, and other alloys and metals listed in this regulation after they shall have been imported

into the forty-eight states and the District of Columbia.

(d) **Relation to General Maximum Price Regulation.** This regulation supersedes the General Maximum Price Regulation as to sales and deliveries which are covered by, or expressly excluded from, this regulation.

**Sec 13 Records and reports.** (a) On and after November 8, 1943 every person making a purchase or sale of tungsten, molybdenum, vanadium, cobalt, and other alloys and metals covered by this regulation shall keep for inspection by the Office of Price Administration, for so long as the Emergency Price Control Act of 1942 remains in effect, complete and accurate records of each such purchase or sale showing: (1) the date thereof, (2) the name and address of the buyer and the seller, (3) the quantity and analysis of each grade and size purchased or sold, (4) the date of delivery of each shipment, and (5) the price paid or received. The invoice or any other customary record containing the required data may be retained for the purposes of this section.

(b) Persons subject to this regulation shall submit such reports, subject to the approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942, as the Office of Price Administration may from time to time require.

**Sec 14 Adjustable pricing.** Any person may agree to sell at a price which can be increased up to the maximum price in effect at the time of delivery, but no person may unless authorized by the Office of Price Administration, deliver or agree to deliver at prices to be adjusted upward in accordance with action taken by the Office of Price Administration after delivery. Such authorization may be given when a request for a change in the applicable maximum price is pending, but only if the authorization is necessary to promote distribution or production and if it will not interfere with the purposes of the Emergency Price Control Act of 1942 as amended. The authorization may be given by the Administrator or by any official of the Office of Price Administration to whom the authority to grant such authorization has been delegated. The authorization will be given by order, except that it may be given by letter or telegram when the contemplated revision will be the granting of an individual application for adjustment.

**Sec 15 Applications for adjustment—(a) When available.** The Office of Price Administration will adjust any maximum price established by this regulation whenever it finds from an application for adjustment or on its own motion that the price impedes or threatens to impede any seller's production of any commodity and that the seller's production is necessary for essential war or civilian purposes.

(b) **Considerations.** In considering whether production is impeded or threatened, among other factors, consideration will be given to: (1) costs of

8 PR 8864 10782  
8 PR 8181 10570  
8 PR 3075 3210 3024

8 PR 4132 5087 7062 5087 9998  
8 PR 3098 3449 4347 4486 4724 4448  
4974 4047 6562 8311 9025 9901 11954 13724

and revenue from the commodity in question, (2) the relative importance of the commodity in the seller's overall business, (3) the profitability of the seller's business, and (4) any special facts which the seller calls to the attention of the Office of Price Administration.

(c) *Amount of adjustment.* Increase in price will be permitted in an amount which the Office of Price Administration considers sufficient to avoid the impeding of production or the threat of impeding production.

(d) *Form of application.* An original and one copy of an application for adjustment must be filed with the Office of Price Administration, Washington, D. C. It is suggested that, before filing an application for adjustment under the provisions of this section, the seller obtain from the Non-Ferrous Metals Branch, Office of Price Administration, Washington, D. C., a statement of the specific information that will be necessary in order that his application may receive prompt action.

**Sec. 16. Petitions for amendment.** Any person seeking an amendment of any provision of this regulation may file a petition for amendment in accordance with the provisions of the Revised Procedural Regulation No. 1,\* issued by the Office of Price Administration.

**Sec. 17. Prohibition against dealing in tungsten, molybdenum, vanadium, cobalt, ferrophosphorus and other alloys and metals at prices above maximum.**

(a) On and after November 8, 1943, regardless of any contract, agreement, or other obligation, no person shall sell or deliver tungsten, molybdenum, vanadium, cobalt, ferrophosphorus or any other alloys or metals covered by this regulation and no person in the course of trade or business shall buy or receive tungsten, molybdenum, vanadium, cobalt, ferrophosphorus or any other alloys or metals covered by this regulation at prices higher than the maximum prices set out in this regulation; and no person shall agree, offer, solicit, or attempt to do any of the foregoing.

(b) Any practice or device which is an attempt to get the effect of a price higher than the maximum without actually charging a higher price is prohibited and is as much a violation of this regulation as an outright excessive price. This applies to devices involving commissions, services, transportation arrangements, premiums, special privileges, tying-agreements, trade understandings and the like.

(c) Prices lower than those set out in this regulation may be charged, demanded, paid or offered.

**Sec. 18. Enforcement.** (a) Persons violating any provision of this regulation are subject to the criminal penalties, civil enforcement actions and suits for treble damages provided for by the Emergency Price Control Act of 1942, as amended.

(b) No war procurement agency, nor any contracting or paying finance office thereof, shall be subject to any liability, civil or criminal, imposed by this regulation or the Emergency Price Control Act of 1942, as amended. "War procurement agency" includes the War Department, the Navy Department, the United States Maritime Commission and the Lend-Lease Section in the Procurement Division of the Treasury Department, or any agency of the foregoing.

**Sec. 19. Licensing.** The provisions of Licensing Order No. 1, licensing all persons who make sales under price control, are applicable to all sellers subject to this regulation. A seller's license may be suspended for violation of the license or of any one or more maximum price regulations. A person whose license is suspended may not, during the period of suspension, make any sale for which his license has been suspended.

**Sec. 20. Definitions.** (a) When used in this regulation the term:

(1) "Person" includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative of any of the foregoing, and includes the United States or any agency thereof, or any other government or any of its political subdivisions, or any agency of any of the foregoing.

(2) "Purchaser of the same class" refers to the practice adopted by the seller in setting different prices for sales to different purchasers or kinds of purchasers or for purchasers located in different areas or for different quantities or grades or under different conditions of sale.

(3) "Contract price" means that price determined by a written contract calling for delivery or deliveries of an estimated amount at some future date or dates within a specified period of time, not less than three months.

(4) "Gross ton" means 2,240 pounds.

(5) "Spot price" means the price for a single or isolated sale for delivery within three months.

(6) "Carload lots" means not less than the minimum quantity which may be shipped by the seller to the particular buyer at the carload tariff rate.

(7) "Freight" means the charge for transportation not in excess of the charge made by railroads and includes the federal tax on such railroad transportation charge.

(8) "Tungsten" means any one of the materials which are specifically listed in section 1 and any other alloy or compound of tungsten which is consumed principally by the metallurgical industry.

(9) "Molybdenum" means any one of the materials which are specifically listed in section 2 and any other alloy or compound of molybdenum which is consumed principally by the metallurgical industry.

(10) "Vanadium" means any one of the materials which are specifically listed in section 3 and any other alloy or compound of vanadium which is consumed by the metallurgical industry.

(11) "Cobalt" means any one of the materials which are specifically listed in section 4 and any other alloy or compound of cobalt which is consumed principally by the metallurgical industry.

(12) "Ferrophosphorus" means an alloy of phosphorus as described in section 5.

(13) "Other alloys and metals" means any of the materials covered in section 6.

(14) "Alloy or compound of a particular element" (as tungsten) means an alloy or compound, consumed principally by the metallurgical industry, in which the particular element accounts for a larger part of the material cost than any other constituent element.

(15) "Metallurgical industry" means the group of industries which produce metals, steels, carbides and ferrous and non-ferrous alloys.

(b) Unless the context otherwise requires, the definitions set forth in section 302 of the Emergency Price Control Act of 1942 shall apply to other terms used in this regulation.

This regulation shall become effective November 8, 1943.

**NOTE:** All reporting and record-keeping requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Issued this 2d day of November 1943

GEORGE J. BURKE  
Acting Administrator



No. 27008  
DE 44 5 F  
FILED APR 11 1946  
G. W. O'NEILL, Clerk  
BY Wesley  
DEPUTY CLERK  
2 1063

CONTINENTAL ORE COMPANY  
500 FIFTH AVENUE  
NEW YORK 18, N. Y.

March 21, 1946

Electro Metallurgical Sales Corp.  
30 East 42nd Street  
New York 17, N. Y.

Att: Mr. W. E. Vogt

Re: Vanadium Pentoxide

Gentlemen:

As a trial lot we would very much appreciate receiving from you  
100 lbs. of metallic V contained in V205 *boxed*

*DPUNS*  
packed in steel ~~cans~~ *boxes*, each containing exactly 10 lbs.  
metallic V in the form of V205

Some time ago you advised us that for such special packing you  
would ask a premium of \$0.065 per pound of V205 (for quantities  
below 2000 lbs.) which would have to be added to the contract price  
of \$1.10 per pound of V205.

We would very much like to *DPUNS* have these ~~te~~ *cans* placed in a box, *+*  
and will give you shipping instructions as soon as you tell us  
when the material is expected to be ready.

As mentioned before, this is a trial lot, and if it works out as  
we hope it will, we can follow this up with larger and regular  
orders.

Looking forward to hearing from you at your early convenience,

Very truly yours,

CONTINENTAL ORE COMPANY

*Manager*

*New Straight order  
on Niagara  
Order is volume ready &*

MWolf:lp

*we will furnish  
consignee & complete  
shipping info.*

3/27  
RECEIVED  
APR 11 1946  
CHALLENGED



# ELECTRO METALLURGICAL SALES CORPORATION

Unit of Union Carbide and Carbon Corporation

Carbide and Carbon Building **UCC** 30 East 42nd Street, New York 17, N. Y.

## "ELECTROMET" FERRO-ALLOYS, METALS, AND OTHER METALLURGICAL PRODUCTS

### OFFICES

Carbide and Carbon Building, New York 17, N. Y.  
Union Commerce Building, Cleveland 14, Ohio  
Carbide and Carbon Building, Chicago 1, Ill.  
Adams Grant Building, San Francisco 4, Calif.  
Brown-Menz Building, Birmingham 3, Ala.  
General Motors Building, Detroit 2, Mich.  
Oliver Building, Pittsburgh 22, Pa.

*D. S. H.* EX 5  
FILED JUN 11 1958  
G. W. CARPHEATER, Clerk  
BY *[Signature]*  
September 10, 1958

ELECTRO METALLURGICAL SALES CORPORATION agrees to sell

Continental Ore Company

of New York, N. Y.

agrees to buy Buyer's domestic manufacturing requirements

of Vanadium Oxide

for delivery in as nearly equal monthly quantities as practicable at the respective prices, terms, and conditions set forth in this agreement, which shall continue until terminated by either party giving not less than six (6) months prior written notice to the other party.

The prices and terms of payment for the standard grade or grades and sizes of this material are shown on the schedule hereto attached and made a part of this agreement.

The prices which are in effect may be revised by the Seller at the beginning of any calendar quarter by giving not less than fifteen (15) days prior written notice to the Buyer. Such revised prices shall become effective at the beginning of such calendar quarter year and shall remain in effect until again revised in the manner hereinbefore provided. If any such revised prices are not acceptable to the Buyer, the Buyer may cancel future orders contracted for hereunder to which such revised prices apply by giving written notice to the Seller not less than ten (10) days prior to the beginning of such calendar quarter year.

Deliveries are subject to strikes, riots, war, governmental acts and regulations, fires, explosions, accidents, acts of God, delays in procuring sufficient or suitable raw materials, delays of carriers, curtailment of or failure to obtain sufficient electrical power, and other similar or dissimilar contingencies affecting the Seller or the manufacturer of the material and beyond its reasonable control.

During any time in which the Seller is not satisfied with the Buyer's financial responsibility, the Seller may change the terms of payment or suspend deliveries.

The Buyer shall pay all existing and future taxes imposed by reason of sale or delivery under this agreement.

The benefits and obligations of this agreement shall extend to the successors and assigns of the respective parties.

This agreement shall not be effective until approved by an officer or manager of the Seller and when so approved shall supersede all prior agreements covering the same material. No change in or addition to the terms hereof shall be made unless approved in writing by an officer or manager of the Seller, and an authorized representative of the Buyer.

ELECTRO METALLURGICAL SALES CORPORATION

ACCEPTED:

CONTINENTAL ORE COMPANY

BY

APPROVED:

DEFENDANT U'S EXHIBIT "5-J"

Nisley & Wilson Vanadium Mill  
Gateway, Colorado

October 15, 1943

Continental Ores Company  
500 Fifth Avenue  
New York City, New York

Dear Mr. Leir:

Some time ago we were corresponding with you concerning the possibility of making a flake material which would be more desirable than crushed material. At the time we were extremely pressed under the Metals Reserve operation and weren't able to do anything about it, equipment being very scarce.

A few days ago we completed a flaking machine and put it into operation. The material seems to us to be of a very desirable nature, for as far as we are concerned, it can be sacked without further treatment. If it is not fine enough for your work, we could if necessary run the thin flakes thru a small set of rollers and make it somewhat finer than it is at the present time.

We are sending you a small sample of the material we are now making.

Concerning production we are operating under the same arrangements with M.R.C. However we are treating somewhat lower grade ore than we used to. Our output has been running in the neighborhood of 11,000 to 12,000 lbs. of Vanadic Acid

Defendant U's Exhibit "5-J"—(Continued)

monthly. The grade of the product has been extremely good, last months average being 87.47%  $V_2O_5$ .

We would like to hear from you concerning your reaction to the flake material. I might add that we are turning out this product commercially, in fact all  $V_2O_5$  being produced is of this nature. Perhaps this change will be of value to us both after the war.

Sincerely yours,

NISLEY & WILSON,  
/s/ FRANK NISLEY, JR.

P.S.: I notice in checking over our files that we have a letter dated July 8 from Mr. Wolf in which he asked us for a 25 lb. sack of ore. I can find no record or having ever sent the material nor do I remember having seen the letter before. I'm extremely sorry if the ore hasn't been sent and if it would still be of value to you we would gladly send it to you.

/s/ FRANK.

October 28, 1943

Mr. Frank Nisley, Jr.  
Nisley & Wilson Vanadium Mill  
Gateway, Colorado

Re: Vanadic Acid in Flakes

Dear Mr. Nisley:

We refer to our letter of October 25.

Defendant U's Exhibit "5-J"—(Continued)

Your sample has just arrived, and we really want to congratulate you on the fine job you are doing, because these flakes are just what we like best.

From your letter of October 15, we note that you are making 11,000 to 12,000 pounds of vanadic acid per month at the present time.

Please let us know what your situation is with regard to crude ore, that is, whether you have some of your own or whether you are dependent upon the U. S. Vanadium Corp.

We would also like to know whether you believe that after the war you will be in a position to either operate your own mines or to buy ore from independent miners.

The war may be over in the not too distant future, and we would like to obtain an idea as to what your situation would be at that time. There are already signs of abundance of basic ores and minerals, but we are anxious to cooperate with you and keep your mill running in peacetime.

Please let us know at the same time when your present contract with the Metals Reserve Company expires.

With kind personal regards.

Very truly yours,

CONTINENTAL ORE COMPANY,  
HENRY J. LEIR.

hjl/sk

DEFENDANT U'S EXHIBIT "5-K"

July 3, 1939

The Vitro Manufacturing Company  
Corliss Station  
Pittsburgh, Pa.

Gentlemen:

I refer to my telephone conversation with your President, Mr. Fleg, following your offer of June 13.

I hereby inform you that I am connected now with the above Company which will handle the business for the Luxemburg firm on this side of the ocean. I hope it will be possible to come now to some substantial business.

I telegraphed you today as follows:

"Please book definitely two lots Vanadic Acid three thousand lbs. each stop hope you can ship first lot promptly second lot July earliest,"

and shall be glad to have your confirmation for the following business:

Merchandise: Your Vanadic Acid, gas-dried, containing a min of 83%  $V_2O_5$ .

Quantity: 6,000 lbs.

Price: \$1.25 per lb. of  $V_2O_5$  content.

Delivery: F.A.S. New York.

Time of Shipment: 3,000 lbs. immediately; 3,000 lbs. earliest afterwards.

Sampling/Weighing/Analysis: By Messrs Ledoux & Co., the cost to be equally divided between us.

Payments: Against Documents.

Defendant U's Exhibit "5-K"—(Continued)

As the analysis of Messrs. Ledoux & Co. generally takes from 7-10 days, we propose you the following:

We pay you your provisional invoice, made out on the basis of 83% against receipt of the merchandise, so that we can ship it over to Europe without delay.

The settlement of any balance will be effected as soon as the certificates of Ledoux are in our hands.

We shall be very much obliged to you if you can ship the 3,000 lbs. directly to Messrs. Ledoux & Co., and we will hand them our cheque made out to your order.

We shall be glad to hear from you soon, and remain,

Yours very truly,

CONTINENTAL ORE CORPORATION  
HENRY JOHN LEIPZIGER.

HJL:LL

July 5, 1939

The Vitro Manufacturing Co.  
Corliss Station  
Pittsburgh, Pa.

Attention: Mr. E. M. Fleck, President

Gentlemen,

Your letter dated July 3, crossed ours of the same date.

We agree with the sampling by the Pittsburgh Testing Laboratory, and as soon as this sampling has been done please forward the first lot of 3000 lbs. to the following address:

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Defendant U's Exhibit "5-K"—(Continued)

Messrs. Tranship, Inc.,  
8-10 Bridge Street,  
New York City,

whom in exchange we shall hand our cheque on the provisional basis of 83%, cheque made out to your order directly.

We further agree with weighing, respectively control checking of weighing by the Pittsburgh Testing Laboratory if this suits you better.

In any case we will be very much obliged to you, if you will forward those 3000 lbs. on receipt of this letter because we want to ship this first lot next week already.

Thanking you in advance for the kind attention you will give this matter, we remain,

Yours very truly,

CONTINENTAL ORE CORPORATION,  
HENRY JOHN LEIPZIGER.

HJL/LL

July 17, 1939

The Vitro Manufacturing Co.  
Corliss Station  
Pittsburgh, Pa.

Attention: Mr. J. Harvey Schmitt

Gentlemen,

We just receive cable from our friends on the other side that they want sampling and testing done by Ledoux & Co. We assume that this is just as

Defendant U's Exhibit "5-K"—(Continued)

agreeable to you, and would only ask you to kindly confirm that your next shipment of 3000 lbs. will be sampled and tested also with regard to moisture by Messrs. Ledoux in New York.

Thanking you in advance,

Yours very truly,

CONTINENTAL ORE CORPORATION,  
PAUL M. HIRSCHLAND.

The Vitro Manufacturing Co.  
Corliss Station  
Pittsburgh, Pa.

July 18, 1939

Continental Ore Corporation  
500 Fifth Avenue  
New York, New York

Attn: Mr. Paul M. Hirschland

Gentlemen:

We have your letter of July 17 in regard to the methods of testing Vanadic Acid.

We note that you wish to have the second lot, consisting of 3,000 pounds, now in the course of preparation, sampled and analyzed by Ledoux & Company. You are probably not aware of the fact that in order to have it sampled by Ledoux we must request that a representative comes from New York to Pittsburgh to do so. This involves \*considerable

---

\*Pen underscore.



Defendant U's Exhibit "5-K"—(Continued)

expense, amounting to possibly \$60.00-\$70.00. If it is agreeable to you to bear this expense, we will be glad to have Ledoux' representative come to Pittsburgh. It is for reason of economy that we have, in the past, had the sampling done by the Pittsburgh Testing Laboratory, and we only charged you for half of the cost of this work. This was only a matter of a few dollars.

If your clients still insist on Ledoux' sampling from now on, we will do so only if you agree to pay this additional expense. Otherwise, we will be obliged to cancel the order.

Kindly advise us of your final decision in this matter and oblige.

Very truly yours,

THE VITRO MANUFACTURING  
COMPANY,

/s/ A. J. STROD,

A. J. Strod, Sales Mgr.

AJS:AS

July 19, 1939

The Vitro Manufacturing Co.  
Corliss Station  
Pittsburgh, Pa.

Att: Mr. A. J. Strod

Gentlemen:

We are in receipt of your letter of July 18 regarding testing method of Vanadic Acid.

We have passed along immediately to our people

Defendant U's Exhibit "5-K"—(Continued)

on the other side your information that you require the coming over to Pittsburgh of a representative of Ledoux & Co. for sampling purposes, and that you would not participate in bearing such costs.

We also noted that you will be obliged to cancel the order, unless the additional charges are paid on our side, or, unless of course the sampling and testing will be done as in the case of the previous shipment.

We regret to say that for the moment we cannot do anything except wait for the reply which we expect in about two weeks. We hope, however, that we will be able to come to an agreement, and remain in the meantime,

Yours very truly,

**CONTINENTAL ORE CORPORATION,  
PAUL M. HIRSCHLAND.**

The Vitro Manufacturing Co.  
Corliss Station  
Pittsburgh, Pa.

August 18, 1939

Continental Ore Corporation  
500 Fifth Avenue  
New York, New York

Attention: Mr. Paul M. Hirschland

Gentlemen:

Please refer to your letter of July 19 in regard to a shipment of Vanadic Acid covered by your

Defendant U's Exhibit "5-K"—(Continued)

contract. According to your letter, we were to be advised by you early this month whether or not the shipment is to be expedited as per conditions of the contract.

So far, we have not received any notice from you, and are holding the material pending your shipping instructions. We would like to move the shipment before the end of the month, and would ask you to kindly let us know as quickly as possible about the method of sampling of the lot in question.

Thanking you for your prompt attention, we are,

Yours very truly,

THE VITRO MANUFACTURING CO.,

/s/ A. J. STROD,

A. J. Strod, Sales Manager.

AJS:AH

August 21, 1939

The Vitro Manufacturing Co.

Corliss Station

Pittsburgh, Pa.

Attention: Mr. A. J. Strod

Gentlemen:

We have your letter of August 18 and also received a reply from Europe.

As we wrote you in our letter of July 19 we passed to our European friends the sampling—and analysing—conditions that you mentioned in your letter of July 18 to us, and also that you will be obliged to cancel the order unless those conditions are accepted.

Defendant U's Exhibit "5-K"—(Continued)

We hear now from the other side that they cannot see why you do not accept Ledoux, except under additional expenses which they are not prepared to incur, particularly since differences in the analysis results are apparent, on your last shipment.

As it seems to us under the circumstances an agreement on the basis of your letter of July 18 cannot be reached.

Accordingly we accept your offer to cancel the order.

Yours very truly,

CONTINENTAL ORE CORPORATION,  
PAUL M. HIRSCHLAND.

The Vitro Manufacturing Co.  
Corliss Station  
Pittsburgh, Pa.  
August 22, 1939

Continental Ore Corporation  
500 Fifth Avenue  
New York, New York

Attn: Mr. Paul M. Hirschland

Gentlemen:

We are in receipt of your letter of August 21 and regret to note that your clients abroad do not wish to accept the analysis and sampling conditions agreed upon between us.

Under the date of July 3 you wired us, requesting a definite booking of two lots of Vanadic Acid,

## Defendant U's Exhibit "5-K"—(Continued)

each of 3,000 pounds, and confirmed the purchase by letter on July 3. In a letter dated July 5 you also expressly agreed that the weighing and sampling could be done by the Pittsburgh Testing Laboratory. After these definite conditions of sale were mutually accepted and the two lots prepared by us, you now intend to cancel the second lot for what appears to us no valid or just reason.

Frankly, we are very much disappointed over the news you have communicated at this late date as we have kept the shipment for over a month and lost a sales possibility in other directions.

In order to find some manner of settling this matter, we again reviewed our files—particularly, your contract of July 3. There, under the heading "Sampling, Weighing, and Analysis", we found that you did originally expect that all these operations would be done by Ledoux & Company, with the costs evenly divided between us. Although this clause was later modified, we will accept the original instructions in order to fully satisfy your clients. Therefore, if agreeable to you, we will have a representative of Ledoux & Company come to Pittsburgh and promptly sample the second 3000-pound lot which we are still holding.

As to a difference in analyses, we assure you that no two analyses made by different parties will check exactly. An allowance should always be made for the human element and a possible slight deviation in the results obtained.

Defendant U's Exhibit "5-K"—(Continued)

In closing, we wish to add that it may prove to your advantage in the future to have available an independent source of supply for Vanadic Acid.

We will appreciate having your final decision in this matter at the earliest possible date.

Very truly yours,

THE VITRO MANUFACTURING  
COMPANY,

/s/ A. J. STROD,

A. J. Strod, Sales Manager.

AJS:AS

August 23, 1939

The Vitro Manufacturing Co.  
Corliss Station  
Pittsburgh, Pa.

Attention: Mr. A. J. Strod

Gentlemen:

We have your letter of August 22 and noted its contents.

We appreciate your new proposal to reach an agreement and we have today written accordingly to Europe by air-mail. You will realize that we are in a difficult position, because we passed along to our friends your conditions contained in your letter of July 18. We can only repeat that in that letter you declared that if our clients continued insisting on Ledoux's sampling you would only agree provided we paid the additional expenses, and that you would be obliged to cancel the contract otherwise.

Defendant U's Exhibit "5-K"—(Continued)

To all this we got the reply that your proposals are not acceptable, and that they accept your cancellation accordingly.

Nevertheless we naturally, and very gladly, informed our friends today and we will communicate with you immediately upon reply from them to your new offer of yesterday.

We remain until then,

Yours very truly,

CONTINENTAL ORE CORPORATION,  
PAUL M. HIRSCHLAND.

August 28, 1939

The Vitro Manufacturing Co.

Corliss Station

Pittsburgh, Pa.

Attention: Mr. A. J. Strod

Gentlemen:

Referring to our letter of August 23 we wish to advise you that we received cable today from our friends in reply to our air-mail letter of August 23. saying that they have made provision for their requirements elsewhere.

We regret that an agreement on the basis of your proposal of August 22 cannot be reached, but we hope that the inconvenience caused to you and us will be made up for soon by some new business.

Yours very truly,

CONTINENTAL ORE CORPORATION,  
PAUL M. HIRSCHLAND.

MANHATTAN ENGINEERS DISTRICT  
 USEO-WAREHOUSE, GRAND JUNCTION, COLORADO  
 SUMMARY OF MATERIAL BALANCE STATEMENTS  
 VANADIUM OXIDE (V2O5) IN POUNDS  
 DECEMBER 1, 1943 THROUGH FEBRUARY 1956

Date	Lot Numbers	Received From	Returned to	Shipped to	Balance
		Grand Junction Mill	Grand Jet. Mill	Sioux Ord. Depot	
December 1, 1943 to					
September 30, 1944	1 thru 72	723,160.46			723,160.46
October 1944	73 thru 81	92,930.89			816,091.35
November 1944	82 thru 88	71,898.94			887,990.29
December 1944	91 thru 98	81,789.74			969,780.03
January 1945	99 thru 106	82,072.62	9,625.64		1,042,227.01
February 1945	107 thru 115	92,455.03			1,134,682.04
March 1945	116 thru 124	92,413.62			1,227,095.66
April 1945	125 thru 130	62,012.97			1,289,108.63
May 1945	131 thru 139	92,814.27	9,647.44		1,372,275.46
June 1945	140 thru 148	92,194.70			1,464,470.16
July 1945	149 thru 156	81,614.85	9,802.70		1,536,282.21
August 1945	157 thru 169	92,068.36	10,079.75		1,618,270.22
September 1945	170 thru 178	112,875.61	10,052.82	1,149,366.46	571,727.51
September 1945	Plus 89 & 90				
October 1945	179 thru 185	72,091.28	10,019.24	92,098.05	541,701.50
November 1945	186 thru 187	15,266.14		316,327.37	240,640.01
February 1946				240,640.01	-0-
		1,857,659.48	59,227.59	1,798,431.89	-0-

Six lots containing 59,227.59 pounds of Vanadium Oxide (V2O5) were recorded as receipts and later returned to the mill for further processing. When returned to the mill, they were recorded as a shipment rather than a reduction of receipts resulting in an overstatement of receipts in this amount.

Five lots were returned to process and not recorded as a receipt or shipment.

Lots returned to the mill feed lost their identity and the material was included in a new lot when reduced to end product.

187 lot numbers were used and are summarized as follows:

6 lots were recorded as receipts and later returned to the mill.

5 lots were not recorded in receipts and were returned to mill feed.

176 lots transferred to the U. S. Treasury Department and shipped per their instruction to the Sioux Ordinance Depot.

187 Total lots accounted for



DEFENDANT V'S EXHIBIT "1-A"

November 5, 1941

To: Apex Smelting Company

Attention: Mr. L. Lippa

Re: Vanadium

Thank you for having sent us copies of your correspondence with Blanding.

Following our conversation of last Saturday, we have already contacted several of our customers with regard to

Exothermic Vanadium

and we want to tell you that the reaction is absolutely favorable.

1. We expect to have a very satisfactory price for this new vanadium compound as we call it.

2. We will easily sell whatever quantities we can produce.

We see from your correspondence with Blanding that Mr. Milenski is going to visit you around November 10th. He is probably on his way to the East, and we must do everything to prevent him from dealing with other parties.

We think you should offer him \$1.05, delivered Chicago "until further notice", and tell him that if his material proves to be reliable in quality, and particularly if he could increase the quantities, you will consider going up to \$1.10.

As a matter of fact, our calculation for the exothermic vanadium is already based upon the \$1.10

Defendant V's Exhibit "1-A"—(Continued)

price, delivered Chicago, as you can see from the following figures:

\$1.10 per pound V.O.	178
—\$1.958 per lb. V	
0.042 Canning	
<u>\$2.000</u>	
.10 Aluminum	
<u>\$2.10</u>	

The prices we offered, dependent upon the customer, were between \$2.30 and \$2.35, and we feel pretty certain that we can get them.

Therefore, you can see for yourself that we should go up to \$1.10 if necessary, in order to secure the material for ourselves, and as much material as possible.

If Blanding will start to give us their entire output now, they certainly cannot switch in 3 months time, to other consumers, because of the contracts which will be made from now until the end of the year.

Please be so kind as to confirm receipt of this letter, so that we see that it is in your hands before you see Mr. Milenski.

CONTINENTAL ORE CORPORATION.

Henry J. Leir/rk

**DEFENDANT V'S EXHIBIT "1-D"**

July 14, 1938

Societe d'Electro-Chimie de Brignoud  
66, Rue de Miromesnil  
Paris, France

Gentlemen:

We hereby offer to employ Mr. Henry John Leir as Production Consultant to the Thermit Department which we are establishing pursuant to our agreement of July 1, 1938. His employment shall continue during the term of said agreement and with the understanding that he will devote at least three months in each year to direct work and activity for the Thermit Department in the United States. It shall be his duty to assist us in the purchases, production and sales of the Thermit Department. He shall not, of course, make any commitment on our behalf without express authority from our Board of Directors.

As full compensation for his services during each calendar year, we agree to pay to him an amount equal to 10% of the net receipts, as defined in said agreement, of our Thermit Department during such calendar year. Payment of this compensation will be made in lawful money of the United States within forty-five days after the close of each calendar year. Remittance shall be by Chicago or New York draft, subject, however, to all applicable laws of the United States or the State of Illinois relating to the withholding of taxes at the source.

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Defendant V's Exhibit "1-D"—(Continued)

If this arrangement is satisfactory to you and Mr.  
Leir will you both kindly confirm the same.

Very truly yours,

APEX SMELTING COMPANY,

By .....

WAS:AG

---

DEFENDANT V'S EXHIBIT "1-E"

Continental Ore Corporation

500 Fifth Avenue

New York

Pocatello, Idaho

July 27, 1940

Mr. Daniel Milenski

Cortez, Colo.

Dear Mr. Milenski:

I refer to our conversation in Grand Junction.

As soon as you will have 1000 lbs. ready, please  
forward them to the following address:

Apex Smelting Co. 2537 W. Taylor Street, Chi-  
cago, Ill.

It is understood, the material must be "fused  
vanadic acid, with at least 85%  $V_2O_5$  or better". In  
other words, please make sure, that the 1000 lbs.  
will be sent only, if the quality is right.

Declare the merchandise with 5 cents per lb. value

Defendant V's Exhibit "1-E"—(Continued)

only, the Continental will take care of the insurance, because otherwise the freight becomes too expensive.

\*You are authorized to attach a sight-draft to the B/L for, let us say, 80 cents per lb. of acid shipped, which will be paid by the Apex on arrival.

Final settlement will be done through our office within 14 days after arrival of your material in Chicago and exchange of analysis. Only in case of a difference of more than 0.5%  $V_2O_5$  we should go to some independent laboratory for an analysis of arbitration, the cost of which will then be at the charge of the succumbing party.

Until further notice, we will pay a price of 1.03 Doll. per lb. of  $V_2O_5$  f.o.b. Thompson, less 3%. We undertake to return the bags or barrels, you will use for packing.

I hope, that besides of this domestic business, also some exportation will be possible again in a not to distant future.

Kind regards.

Sincerely yours,

/s/ HENRY JOHN LEIR,

Henry John Leir.

c.c: New York

\*[Marginal Note: "No."]

DEFENDANT VS EXHIBIT "1-F"

Continental Ore Corporation

500 Fifth Avenue

New York

August 10, 1940

Mr. Dan Milenski  
Cortez, Colorado

Dear Mr. Milenski

I returned to New York today and remember with pleasure our conversation in Grand Junction.

I was again in Chicago last Thursday, where I saw our friends, the Apex Smelting Company. They expect the arrival of the 1,000 lbs. which you forwarded in the meantime.

However, I do not quite understand why you mentioned to them the price of \$1.03 less 3%, when you approached them directly. As a matter of fact these 3% represent our commission and you will admit that we cannot work for nothing.

During the last twelve months our gentlemen were three times in Grand Junction and Blanding respectively, not to mention the numerous trips to Chicago; apart from these traveling expenses there is the cost of correspondence, wires and telephone calls, etc.

The Apex Smelting Company is a very valuable customer for you, as I already explained; they are the only independent producer of Ferro Vanadium in the United States and there is no doubt that they can accept your entire output.

Defendant V's Exhibit "1-F"—(Continued)

There is no sense, therefore, to annoy them and to increase the price, now that you have quoted them at the figure of \$1.03 less 3%, corresponding to practically \$1.00 f.o.b. Thompson.

We therefore ask you to reserve us our commission of 3% on this price and to send us your statement every month for such commission, due to us.

With regard to further shipments, we hereby authorize you to ship the 3,000 lbs. which you have ready to Chicago, provided you are absolutely sure that the quality will not be inferior to the material we had from the old mill. In other words, it should analyze around 90% V.O., but must contain a guaranteed minimum of 85%.

If you are not absolutely sure about this point, we suggest that you await the analysis of Apex for the first shipment of 1,000 lbs., which should be available very shortly.

We have arranged the following procedure for the analysis with Apex:

As soon as a shipment arrives in Chicago Apex will sample and test it, and will send you a sealed sample bottle of the shipment and another sealed bottle to ourselves.

You will send us the result of your analysis and they will do likewise, so that we will act as trustees for the exchange of analyses. If the difference between the two analyses does not exceed 0.5%, the average between the two will be the basis for settlement. Should the difference exceed 0.5%, then

Defendant V's Exhibit "1-F"—(Continued)

we will send our bottle to Ledoux & Company for an analysis of arbitration, the cost of which will have to be borne by the succumbing party.

There is another detail which the Apex wanted us to discuss with you; it refers to the freight rate. For internal arrangements Apex prefers that you prepay the freight to Chicago, so that they have nothing to do with it. You can of course debit us with the amount of the freight. We, in turn, can authorize you to declare a value of only 5c per pound, in order to keep the freight rate down to a minimum, and we hereby undertake to cover all these shipments under our insurance policy, at no cost to you.

We think the above covers all details for the time being, and trusting that the pleasant relationship which existed between the old mill and ourselves will continue on an even more active basis, we remain, with best regards,

Yours very truly,

CONTINENTAL ORE CORPORATION,

/s/ HENRY JOHN LEIR,

Henry John Leir.

HJL/LL



DEFENDANT V'S EXHIBIT "1-G"

August 16, 1940

Continental Ore Corporation  
500 Fifth Avenue  
New York

Attention: Mr. Henry John Leir

Dear Mr. Leir:

We are sorry that we perhaps went too far in our conversations with the Apex Smelting Company. However, at the time that we talked to them over the telephone, we had not as yet heard from you, and we were quite desirous of shipping the product.

We, of course, realize that you must have a commission for handling; and apparently I had misunderstood as to your relationship with the Apex Smelting Company. However, we will be glad to bill the Apex Smelting Company for \$1.03 f.o.b. Thompson, and then deduct and pay to you directly your 3% if this is satisfactory. We certainly desire to follow your wishes in the matter and see that you collect your commission regularly.

We are shipping 5400 lbs to Chicago today. Shipment is being made by truck instead of railroad for the reason that the service should be much better, and also that we will be able to affect a savings on the freight.

Our mill is running quite well, and we have had no shut-downs since we started operation. Our recovery is not quite satisfactory as yet, but is never-

2496     *Continental Ore Company, et al., vs.*

Defendant V's Exhibit "1-G"—(Continued)

theless improving. Our ore deposits look better daily.

Bigler and I were sorry that you and Mrs. Leir did not have time to stop on your way back from California; and if you are out this way again, we certainly want you and Mrs. Leir to arrange to come to Cortez and Blanding.

With kindest regards to yourself and Mrs. Leir,

Very truly yours,

DM:E

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DEFENDANT V'S EXHIBIT "1-H"

Continental Ore Corporation  
500 Fifth Avenue  
New York

August 19, 1940

Blanding Mines Company  
P. O. Box 895  
Cortez, Colorado

Gentlemen:

We have carefully noted your letter of August 16th and it is up to you to decide whether you want to maintain the price you quoted to the Apex Smelting Company or whether you prefer to increase it.

All we want is the commission of 3%, which is a very moderate one.

**Defendant V's Exhibit "1-H"—(Continued)**

Of course, we must abstain from giving you any advice in this matter but all this correspondence could have been avoided had you not contacted Apex direct.

We think up to the present you have not had any bad experience with our firm. If we make a statement in our correspondence, you can entirely rely upon it.

We would suggest that in order to avoid any misunderstanding in the future, that you communicate only with us here in New York and all matters will run very smoothly as they have in the past.

I was very pleased to hear the operations are running well and I hope your recovery will also now improve.

I do not contemplate coming to the West during the next few weeks but I certainly will do my best to visit the new mill as soon as I can.

With best regards, I am

Very truly yours,

/s/ HENRY JOHN LEIR,

Henry John Leir.

HJL/r

DEFENDANT V'S EXHIBIT "1-J"

Continental Ore Corporation  
500 Fifth Avenue  
New York

August 20, 1940

Apex Smelting Company  
2537 West Taylor Street  
Chicago, Illinois

Re: Blanding

Gentlemen:

We have your letter of August 19th and will try to reach Mr. Lippa on the telephone in order to give you our remarks as to the following points:

1. Please do not crush the 5400 lbs. which are arriving but crush only, let us say, 200 to 300 lbs., according to our letter of August 17th and re-ship the balance of 5100 to 5200 lbs. in its original state (lumpy) to Ledoux.

2. As long as we are re-shipping this material, we would prefer that you do not let the Blanding Mines crush the material down to  $\frac{1}{8}$ ", according to your letter to them of August 19th. In other words, the material should remain lumpy as it has been in the past.

3. Instead of giving Blanding your own analysis on the 200 to 300 lbs. according to #1 of this letter, kindly wait a few days and we will give you Ledoux's exact figures for the 5100 to 5200 lbs. and you can exchange with Blanding the Ledoux figure.

Defendant V's Exhibit "1-J"—(Continued)

4. Should Blanding dispute the figure, then we will arrange for another analysis with Ledoux from this end, all the more because the arrangements with Blanding provide that we have the arbitration sample in our hands and that we have to do the necessary regarding the analysis in arbitration.

This whole system, in our opinion, is excellent and will certainly not lead to any differences.

However, we hereby confirm that we will take the responsibility upon ourselves for this whole transaction. As a matter of fact, the merchandise is simply going "in transit" thru your firm in this particular case.

5. It results from the foregoing that we also take care of the insurance from Chicago to New York.

6. Since it was too late to write you yesterday, we wish to inform you now that we had the opportunity late in the afternoon to sell another 5,000 lbs. of this acid.

7. Blanding intends to ship 20,000 lbs. during the next two months; we think it advisable to re-sell exactly these 20,000 lbs. to other parties because there is a production of about 10,000 lbs. every month from Rifle and two new productions which will open very shortly in Arizona and Los Angeles respectively.

Our sales of ferro vanadium will start on a larger

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Defendant V's Exhibit "1-J"—(Continued)

scale only in September/October and will only reach the maximum from January on when the new contracts for 1941 will go into effect.

Blanding is in a position to increase the production to, let us say, 20,000/25,000 lbs. every month within sixty days' notice.

Rifle is in a position to increase the production in a similar way.

Our idea is to completely buy up both of these productions for the Apex and we can do it all the better if, in the meantime, we are in a position to take every pound they produce.

Needless to tell you that your requirements have first call on all vanadic acid we can secure in the market. However, we repeat that in order to eliminate any buyers in the next months and strengthen your position, it is now necessary to sell certain quantities. We think with the 20,000 lbs. sold according to the above suggestion, the situation will be decidedly in our favor, especially during the period when we will have to make arrangements with the various producers for our own 1941 requirements.

Very truly yours,

CONTINENTAL ORE CORPORATION,

/s/ HENRY JOHN LEIR,

Henry John Leir.

HJL/r

HENRY JOHN LEIR  
30 Central Park West  
New York, N.Y.

2577

JUN 12 1938

*[Handwritten signature]*

*[Handwritten text]*

*[Handwritten text]*

*[Handwritten text]*

December 16, 1940

*[Handwritten text]*

Mr. Louis Lipka  
341 East 67th Street  
Chicago, Illinois

Dear Mr. Lipka:

Your letter of December 6th to Continental was obviously written on a very hurried day; it also was written on a Friday — therefore, not under a lucky star and I therefore did not answer it.

However, your letters to the Continental in the meantime make me think that a reply is due now.

An impartial reader analyzing your letter would see the following situation:

1. You do not want to buy raw material for your manufacture because you are sure the finished product will be sold. *Careful*
2. You feel you are under moral obligation to accept material from Blanding at \$1.05 f.o.b. Chicago and from Shattuck at \$1.10 f.o.b. Chicago, but you cannot authorize us to buy material from Morrison at \$1.00, f.o.b. Chicago.
3. You doubt whether Morrison is able to supply material, although I just made a second trip out there within four months; incidentally both trips were made entirely out of Continental's pocket. You obviously have no confidence in my argument.

When we sent you the order for 5,000 lbs. from Braeburn on December 9th, you would now see that we know our business and that we are on the right track to develop it, because these 5,000 lbs. of Vanadium correspond to 15,000 lbs. of 205 which is the exact quantity we have available from Morrison for December.

I want to bring Morrison's price down to \$1.00, f.o.b. Chicago, as of the first of the year, I must be in a position to take his whole output of 15,000 to 18,000 lbs. a month. Therefore, we now even must sell at \$2.70 in order to make the wheels round and to get out of the vicious cycle described in your letter of December 6th.

If we can book an order at \$2.75, we certainly will accept this price as you have seen in the orders we sent you from:

Disston  
Simonds Saw & Steel  
Latrobe

If the Continental Ore has a direct interest in your profits, it is needless to say we are not throwing any money away by reducing the price to \$2.70 if it is not absolutely necessary.

9-262  
MR. LIPPA

\* 2 \*

Defendant Vanadium Corporation Exhibit No. 1-K--(Continued)

There is no doubt in my mind that if we ship the 5,000 lbs. to Braeburn this month as specified, they will pay us at least \$2.72 in January and probably \$2.75 in February. But, I repeat, even if we had to sell every pound at \$2.70 we must do so at this time in order to be in a position to buy Morrison's whole output at \$1.00 per lb. f.o.b. Chicago; this will enable us to also bring down the price of Blanding's material, and also enable us to eliminate Shattuck.

The prime object must be to sell 15,000 lbs. of V per month so that we can take up the 30,000 lbs. of V205 from Morrison/Blanding and lower the price of our raw material.

It is easier to lower the price of the raw material than to increase the sales price; and on a price of \$1.00 f.o.b. Chicago, we make quite a nice profit, even if we sell at \$2.70.

Within the last three weeks, Mr. Hirschland has made two trips to Pennsylvania for the express purpose of selling ferro vanadium; he returned with the recommendation that we establish stocks at the consumers or at least in Pittsburgh. You rejected this proposal.

However, there is no doubt that if we can ship from Pittsburgh immediately, we will be in a better position to compete with the Vanadium Corporation in Bridgeville, Pa. and we will find that we can get \$2.75 much easier than \$2.70.

In order to substantiate what I have just written (although I do not believe anything we tell you needs substantiation), the Continental Ore Corporation will send you an order tomorrow for 5,000 lbs. of Ferro Vanadium or V which we are willing to buy at \$2.75, f.o.b. Pittsburgh, less our commission of  $2\frac{1}{2}\%$ , and which we ourselves want to stock in Pittsburgh. You will see we mean business.

I am writing this letter while Mr. Hirschland is out of town (he is in Nicetown, near Philadelphia, today) on a trip for ferro vanadium and I would suggest that any reply to this letter be sent to my home; you will find the address above.

W 2-6720  
As you probably know, he is the nephew of Dr. Franz Hirschland, president of the Metal and Thermit Corporation, 120 Broadway, the firm which introduced the Goldschmidt process into this country thirty years ago. He was brought up in England and acquired a B.A. degree in Law at Cambridge.

We have found it is relatively easy for Mr. Hirschland to establish contacts with the consumers of ferro alloys because he can simply refer to his uncle's firm, who for years were the only ones who made ferro alloys by the aluminothermic process in this country.

As our program called for activity in these ferro alloys in the U.S., I found it advisable to take Mr. Hirschland into the firm. I can assure you that as long as he is in the Continental Ore Corporation, Metal and Thermit will not re-open its ferro department.



Defendant Vanadium Corporation Exhibit No. 1-K--(Continued)

I must also tell you that your letter of December 4th surprised me a little. You mention in this letter that "we have never before had anything so unpleasant occur to us".

I think this is a little exaggerated because I have been told that in the waste metal trade, difficulties — particularly with merchants — about the most ridiculous matters are quite frequent.

You will hear and probably read very shortly about the active part the Continental has played in the project of a Government-owned tin smelter; you will also hear that we had the courage, at the beginning of this year, to bring a technical man over from the other side, and he is today unanimously acknowledged the finest electro-metallurgist in his field.

All in all, we are enjoying a good reputation in different quarters today, and we are quite content with what we have accomplished.

With regard to the ferro alloy field, we have the sincere desire to continue and develop this business with you, if you so wish. The first item has been ferro vanadium, but as soon as ferro vanadium moves along on its own momentum, we will not hesitate to develop other items as well, and each of these items can easily represent \$40,000. a year profit (without exaggeration), if you let us go ahead with our knowledge of the business and do not handicap us unnecessarily.

I think this business should be attractive to you, especially because no one can foresee whether the developments in your own field (aluminum) will remain as lucrative as they have been.

If there should be any misunderstandings, you can always write me and the situation will be cleared up. I think I have proved, in all my dealings with you, that I am broadminded, but I cannot conceal from you that many of your last letters appear to have been written in a very angry mood.

If you have no taste for this business, you should tell us frankly that you want to get rid of it.

If, however, you do like the business, then we should see from your letters that you are pleased with it.

Kindest regards.

Sincerely yours

*[Handwritten signature]*

BHL:r

*[Handwritten notes:]*  
I don't think after  
181.00 million 111%  
You committed him  
over it.

DEFENDANT VS EXHIBIT "1-L"

Continental Ore Corporation

November 6, 1940

To: Apex

Subject: Philipp Brothers, New York

We refer to yesterday's telephone conversation when you informed us that the above firm is anxious to obtain ferro vanadium from you.

May we be permitted to make the following comments regarding the above:

1. This New York firm knows that we are your agents and yet they approach you.

2. They did the exact same thing in the Knoxville case (kindly note enclosures which please return); you will see they finally gave in for Mr. Leute gave them the right answer and then they finally gave us their orders.

3. They used the same tactics with Fredet-Kuhlmann, Paris, in offering vanadic acid and vanadium ores to Mr. Spitzer and Mr. Spitzer repeatedly told them to communicate with us.

4. You certainly know that Mr. Forchheimer's brother is in the United States; he is a chemist and was in charge of their ferro alloy operations, first in Germany and then in Sweden. We wish to give you some good advice in this connection—use extreme caution with Mr. F. who is only too anxious to start here with this manufacture with which he is fully familiar.

5. Furthermore, you know that they are on the best of terms with Shattuck and if our memory is

Defendant V's Exhibit "1-L"—(Continued)

correct, Shattuck produced some ferro vanadium in previous years.

For all these reasons we recommend that you give no information whatsoever to Phillip Brothers.

6. As soon as the War is over, there will again be the International arrangements in Ferro Vanadium which existed heretofore and we must avoid bringing new parties into the Ferro Vanadium field.

7. Phillip Brothers have been known for their big business, first with Germany, then with Italy and Japan and we think we should avoid becoming involved in their transactions.

8. If, however, they want to buy for guaranteed domestic use only, you would weaken your proper position as well as ours for we mention in every offer and confirmation that we are your agents.

CONTINENTAL ORE CORPORATION,

President.

H.J.L./r

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DEFENDANT V'S EXHIBIT "1-N"

October 17, 1940

To: Apex

Re: Vanadium Corporation of America

We confirm our wire of today as follows: "Before Writing Vanadium Corporation Please Await Our Today's Letter".

In thinking over what we wrote you yesterday,

**Defendant V's Exhibit "1-N"—(Continued)**

it seems to us that it might perhaps be unwise to contact them because they may make a photostatic copy of your inquiry and use it against you when contacting consumers, hinting at your dependence on raw material.

However, this is only a thought and it is up to you to decide.

**CONTINENTAL ORE CORPORATION,**

**President.**

**H.J.Leir/r**

P.S. This of course applies also to the Electro Metallurgical Sales Corporation.

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**DEFENDANT V's EXHIBIT "1-Q"**

**(Copy)**

**National Vanadium Corporation  
Box 583, Grand Junction, Colo.**

**9/10/41**

**Continental Ore Corp.  
500 5th Ave.  
New York City, N. Y.**

**Attention—Mr. Henry J. Leir**

**Dear Mr. Leir:**

I thought you would be interested in knowing that the government engineers have completed their preliminary examination of our properties and have recommended a complete survey and assay development with proper maps.

Defendant V's Exhibit "1-Q"—(Continued)

The men who were sent were Mr. Jackson, chief engineer of the bureau of mines with two assistants, also Dr. Hewitt, chief of the geological survey with two assistants. The work will begin at once and rushed as much as possible with crews from both departments doing the work.

I have taken up with my directors the matters we discussed in your office and here are a few of the questions which they asked me.

(1) Will they sign a bonded five year contract for the entire output of our 100 ton mill.

(2) Will they pay \$1.00 per pound fused  $V_2O_5$ , 85% or better, F.O.B. Thompson Utah, and increase this price in the relation to what ever increase there might be in the price of their ferro alloy.

(3) When will they furnish funds to stock pile ore on at least a two months anticipation basis, before mill is started or after.

I am quoting these questions for your information and might add that my directors are interested in your proposition. I have also recommended it to them as I told you I would do.

When the assay maps and surveys are completed to the point which we believe will meet the requirements of the R.F.C. I will return to Washington with our complete application. You will probably not be surprised to hear that the U. S. Vanadium Corp. are endeavoring to tie up our product if we are successful and also to block us in every way possible if we do not line up with them.

Defendant V's Exhibit "I-Q"—(Continued)

Trusting I will hear from you.

Very truly yours,

NATIONAL VANADIUM  
CORP.,

(Signed Wyman Sanford.)

cc  
WS

Continental Ore Corporation

Date: 9/16/41

To: Apex Smelting Company

Subject: National Vanadium Corp.

Please find herewith enclosed copies of correspondence with the above.

Kindly send us a letter which we can forward to them.

In any case, we should be cooperative, in order to obtain this output, which, on the basis of 100 tons crude ore per day, we estimate as follows:

Average of the ore	2.5 tons
Less 20% loss in recovery	0.5 tons
	<hr/>
	2.0 tons daily

= 60 tons per month

= 120,000 pounds of  $V_2O_5$

However, you will remember that they want to make only 80,000 pounds of  $V_2O_5$  per month, which would enable us to make about 40,000 pounds of V,

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Defendant V's Exhibit "1-Q"—(Continued)

on which we should be able to make a profit of about \$8,000.00 a month.

We shall be awaiting your news.

CONTINENTAL ORE CORPORATION,

/s/ HENRY J. LEIR.

Henry J. Leir/rk

September 16, 1941

National Vanadium Corporation

Box 583

Grand Junction, Colorado

Attention: Mr. Wyman Sanford

Gentlemen:

We wrote you yesterday and received your letter dated September 10th this morning.

We immediately submitted your letter to the Apex Smelting Company, and will reply in a few days.

In the meantime, we should like to point out the following with regard to the three specific questions you put before us:

1. We are willing to sign a 5-year contract for your total output, and will put up a bond to insure payments.

Inasmuch as you certainly do not want to guarantee a definite amount of production, we think Apex should just give you the preference on their

Defendant V's Exhibit "1-Q"—(Continued)

total requirements, with regard to all you can produce.

2. The price they pay, which we mentioned the other day in New York, is \$1.00 per pound delivered Chicago. The freight rate for you is 2c. We would return the bags or drums, so that you can save on that. The price would be based upon their sales price for the finished Ferro-Vanadium.

3. We think that it is only fair that Apex should have an opportunity to see proof that your process is a good one, before they invest money for the ore stock pile.

As mentioned above, we have submitted your letter to the Apex Smelting Company, and will write you again within the next few days.

Very truly yours,

CONTINENTAL ORE CORPORATION,

.....  
President.

Henry J. Leir/rk

Sept. 17, 1941

Continental Ore Corporation  
500 Fifth Avenue  
New York, N. Y.  
Attention: Mr. Henry J. Leir

Gentlemen:

We have your letter of September 16th which is



Defendant V's Exhibit "1-Q"—(Continued)

in reference to advancing money to cover a supply of ore to the National Vanadium Corporation.

Mr. Singer and I have very carefully thought this matter over, and we come to the conclusion that we have so frequently expressed to you, and that is to keep ourselves from becoming involved in anything outside of our own operations. We, of course, are always glad to finance our own operations, but we do not feel it advisable to finance raw materials in the plants of others, and therefore, we regret exceedingly that we must turn down this National Vanadium suggestion.

So far as a contract with them is concerned, we feel it is entirely too dangerous to tie up for a five year contract, in fact for any length of time. We would be glad to give them a contract based on the market for Ferro Vanadium and for a per cent of our production. In other words, if we sell 50000 lbs. of Vanadium contained material a month, we would guarantee to purchase from them 60 or 70% of that amount. A contract such as this would be flexible and would take care of us so that if business dropped off entirely, we would have no obligations.

We are also in receipt of your letter of September 17th, and we wish to advise that we temporarily held up the new construction although we have set aside one building which we hope will eventually house the Ferro Department. It so happens that in order to make this building suitable, the other build-

*Union Carbide & Carbon Corp., et al.* 2512A

Defendant V's Exhibit "I-Q"—(Continued)

ings have to be done with it, and it will require an expenditure of approximately \$75000.00, and we just deemed it advisable to hold up until we have completed some of our other work, and also to determine whether the sources of Vanadium would develop sufficient material to run that department, for as you know, we are not getting a sufficient quantity to run our present facilities on half time.

We, of course, have faith in this department, and you may rest assured that we will not fail to keep up with the situation, and will utilize the building set aside for it as quickly as we possibly can.

Incidentally, we wonder if you are making any progress on the disposal of the Ferro-Tungsten we have on hand.

If you have any further views pertaining to this National Vanadium, we, of course, would be very glad to have you advise us.

Very truly yours,

APEX SMELTING CO.,  
L. LIPPA.

LL:FS

RECEIVED  
APEX SMELTING CO.  
SEP 2 1941  
AM PM  
7 8 9 10 11 12 1 2 3 4 5 6

9/19/41

RE: NATIONAL VANADIUM CORP.

As we note from the last paragraph of Page 1, you are temporarily holding up the new construction because of the raw material situation.

We agree with you completely that this agreement should be made in a very cautious form, in order to avoid any speculation or risk.

But you should at least give us a free hand with regard to signing a contract for the vanadic acid, in order to encourage them to create this new mill.

Preference on all your requirements of Vanadic Acid  
for a period of 5 years.

We do not believe such a contract (we have signed a similar one with regard to the Deadwood Tungsten, as you know) would constitute any risk for you. It would then be a question only of how to manage the output from: Shattuck, Blanding, and Gateway. We think you can rely upon us to create larger sales of ferro vanadium, in the same proportion in which we obtain raw material.

Please let us have your reaction to the above.

Henry J. Leir/rk

DEFENDANT V'S EXHIBIT "1-R"

cc Apex

September 26, 1941

National Vanadium Corporation

Box 583

Grand Junction, Colorado

Attention: Mr. Wyman Sanford

Gentlemen:

With reference to our most recent correspondence, we had the opportunity to discuss the situation with the Apex Smelting Company yesterday.

1. They agree to let us sign up with you for 70% of their requirements. This is all we could obtain. They are on very good terms with their present suppliers of vanadic acid, and you will understand that they do not want to endanger these relations.

2. While we estimate that this 70% of their requirements will absorb the biggest part of your production, there might be a surplus, which we should like to sell for your account, on a commission basis, to the smaller consumers of vanadic acid in this country and abroad. We would charge you a commission of 2%. It is understood, of course, that shipments to Apex would be exempt from this commission.

3. With regard to this point, we refer to Point 3 in our letter of September 16th. We do not doubt that as soon as you are in production and Apex is convinced that you can supply them with the proper

Defendant V's Exhibit "1-R"—(Continued)

grade, something can be arranged to help you financially.

We hope that the above is sufficient for the present.

If you come East, please let us know, so that we can get together and make a definite contract along the above lines.

Very truly yours,

CONTINENTAL ORE CORPORATION,

.....  
President.

Henry J. Leir/rk

P.S.—You will have noted from your discussion with Apex that they are very conservative. It is our personal opinion that the consumption of Ferro Vanadium will go up so very much that eventually every pound of your production will go to Apex. However, you will appreciate their attitude to their present suppliers.

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DEFENDANT V'S EXHIBIT "1-T"

November 27, 1941

Yesterday I saw Mr. Linz, a chemist, of the Climax Molybdenum Corp., and I gathered from him the following:

1. They do not expect any shortage of molybdenum in 1942. They alone will have 65 million

Defendant V's Exhibit "1-T"—(Continued)

pounds. The production of Kennecott is 12 million pounds.

2. The molybdenum briquettes contain carbon as binder. Carbon reacts for the reduction only if it is pressed. Therefore, mixing molybdenum with carbon powder and packing it into cans would not be useful.

3. These molybdenum briquettes are very useful in the electric furnace, where no carbon is contained.

4. For open hearth furnaces, it seems that they recommend calcium molybdate and molybdenum in cans.

5. In open hearth furnaces, where carbon is present, Scheelite and vanadic acid work automatically because the carbon reduces them.

6. Linz has patents himself for the use of carbon in pressed form as a mixture for tungsten, vanadium, etc.

7. Dr. Saklatwalla has patents for exothermic mixtures, comprising silicon and aluminum as agents. Mr. Linz does not know whether these patents are still in force.

8. Calcium vanadate would be an ideal compound.

9. Linz assures me that mixtures of vanadium with aluminum would lead necessarily to explosions, and he warned me of the danger involved.

Henry J. Leir/rk

Defendant V's Exhibit "I-T"—(Continued)

Apex Smelting Company

Vanadic Acid

11/27/41

We wrote you the other day that you should inform your suppliers to ship all the material in ground form, ground to  $\frac{1}{8}$ " and down.

In making this suggestion, we of course assume that you can use material of such sizes also for the production of ferro vanadium.

However, if  $\frac{1}{8}$ " is too fine for the making of ferro vanadium, then we think we should let the suppliers ship the material in some coarser size, fit for the production of both Van-Ex and ferro vanadium.

With regard to the amount of aluminum to be used, we are just now making some new investigations. We will know more in a few days.

We think it very likely that we will suggest that you keep the amount of aluminum lower than you anticipated, in order to avoid any damage of explosions in the steel furnace.

Therefore, until you have such new information from us, please do not prepare any mixtures for Van-Ex.

CONTINENTAL ORE CORPORATION.

Henry J. Leir/rk

**DEFENDANT V'S EXHIBIT "1-U"**

**12/3/41**

Apex Smelting Company  
Van-Ex

Please find herewith enclosed a copy of our to-day's letter to Mr. Frankel, of Washington.

The man from whom we expect to receive some more information with regard to the correct amount of aluminum is, unfortunately, out of town, and we will be able to see him only on Monday.

In any case, we confirm our letter of November 27th, and would ask you not to prepare any mixtures before we enlighten you a little more about the proper quantity of aluminum.

Another question is whether you would have an opportunity in Chicago to approach a steel mill and place a few cans into their steel furnace (by preference an electric steel furnace) with varying amounts of aluminum, in order to make a practical test before actually shipping such material to the steel mills.

It must be our aim to add less aluminum, rather than too much, in order to eliminate any danger of explosions.

**CONTINENTAL ORE CORPORATION.**

**Henry J. Leir/rk**



DEFENDANT V'S EXHIBIT "1-Y"

Continental Ore Corporation

1/27/42

To: Apex Smelting Company

Attention: Mr. L. Lippa

We received your telegram, reading as follows:

In View of Continued Losses In Our Ferro Department and The Increasing Difficulty In Securing Men to Work In That Department Due to Its Hazardous Nature We Are Compelled to Advise You That We Are Forced to Discontinue This Department Will Do Our Utmost to Fill Present Orders Subject to Approval From Washington.

which arrived in the absence of both Mr. Leir and Mr. Wolf. We immediately advised both of them regarding its contents.

They will contact you directly.

CONTINENTAL ORE CORPORATION,

/s/ E. D. LEIR.

edl/rk

DEFENDANT V'S EXHIBIT "2-B"

[Note: Letter, June 2, 1942, Apex Smelting Co. to Henry J. Leir is read in evidence at pages 1188-1191 of this printed record.]

## ALEXANDER GRANT &amp; COMPANY

MEMBERS AMERICAN INSTITUTE OF ACCOUNTANTS

CERTIFIED PUBLIC ACCOUNTANTS

CHICAGO

May 29, 1942

Defendant Vanadium Corporation Exhibit No. 2-B--(Continued)

Mr. W. A. Singer, President  
Apex Smelting Co.  
2537 West Taylor Street  
Chicago, Illinois

Dear Sir:

In accordance with the provisions of an agreement dated July 1, 1938 between Apex Smelting Co. (an Illinois corporation) and Societe D'Electro-Chimie De Brignoud (a French corporation), we have prepared the attached statement of net receipts of the Thermit Department of Apex Smelting Co. for the period from July 1, 1938 to April 30, 1942. As this statement shows a deficiency of \$8,420.60 of net receipts for this period, there is no royalty payable under the terms of the agreement.

During the course of our regular audits of Apex Smelting Co., we have reviewed the records of the Thermit Department but we did not make a detailed audit of all of the departmental transactions. Based upon such review, it is our opinion that the accompanying statement of net receipts presents fairly the results of the operations of the Thermit Department in accordance with the factors defined in paragraph five of the aforementioned agreement.

Respectfully,



**STATEMENT OF "NET RECEIPTS" OF THERMIT DEPARTMENT AS DEFINED  
IN PARAGRAPH FIVE OF AGREEMENT DATED JULY 1, 1938 BETWEEN  
APEX SMELTING CO. (AN ILLINOIS CORPORATION) AND  
SOCIETE D'ELECTRO-CHEMIE DE BRIGNOUD (A FRENCH CORPORATION)**

July 1, 1938 to April 30, 1942

<u>RECEIPTS</u>	<u>JULY 1, 1938 TO APRIL 30, 1942</u>	<u>JANUARY 1, 1942 TO APRIL 30, 1942</u>	<u>YEAR 1941</u>	<u>JULY 1, 1938 TO DECEMBER 31, 1940</u>
Sales				
Domestic	\$339,120.00	\$72,384.95	\$222,609.81	\$44,125.24
Export	<u>10,498.25</u>	<u>-</u>	<u>-</u>	<u>10,498.25</u>
TOTAL RECEIPTS	349,618.25	72,384.95	222,609.81	54,623.49
<u>CHARGES</u>				
Direct charges				
Raw materials and fluxes				
Inventory at beginning	-	46,356.62	21,124.44	-
Purchases	<u>305,297.06</u>	<u>17,696.14</u>	<u>215,099.29</u>	<u>72,501.63</u>
	305,297.06	64,052.76	236,223.73	72,501.63
Less inventory at end	<u>2,959.52</u>	<u>2,959.52</u>	<u>46,356.62</u>	<u>21,124.44</u>
	302,337.54	61,093.24	189,867.11	51,377.19
Labor				
Direct	12,468.48	1,410.33	7,625.43	3,432.72
Supervision and maintenance	<u>5,414.14</u>	<u>680.00</u>	<u>2,589.14</u>	<u>2,145.00</u>
	17,882.62	2,090.33	10,214.57	5,577.72
Compensation insurance				
Estimated at 4% of total labor	715.31	83.61	408.59	223.11
Social security taxes				
Estimated at 4% of total labor	715.31	83.61	408.59	223.11
Fuel and power - 199 heats at an estimated cost of \$7.50 each	1,492.50	285.00	975.00	232.50
Rental - 5,322 square feet at 30¢ for year 1940; 6,662 square feet at 30¢ for year 1941 and 1942 (4 months only of 1942)	4,261.40	666.20	1,998.60	1,596.60
Depreciation of equipment				
1940 - 7.69% of \$9,763.33 for 1/2 year	375.40	-	-	37
1941 - 7.69% of \$9,763.33 for full year	751.17	-	751.17	-
1941 - 7.69% of \$3,171.77 for 1/2 year	121.95	-	121.95	-
1942 - 7.69% of \$13,341.97 for 1/3 year	<u>342.00</u>	<u>342.00</u>	<u>-</u>	<u>-</u>
	1,590.52	342.00	873.12	375.40
Laboratory expenses - 1,614 determinations at an estimated cost of \$1.50 each	2,421.00	310.50	1,243.50	867.00
Sales commissions	8,480.49	1,798.55	5,493.21	1,188.73
Freight on sales	2,330.09	437.50	1,485.66	406.93
Unclassified	<u>2,392.86</u>	<u>193.83</u>	<u>934.53</u>	<u>1,264.50</u>
TOTAL DIRECT CHARGES	344,619.64	67,384.37	213,902.48	63,332.79
Indirect expenses	<u>13,419.21</u>	<u>2,157.93</u>	<u>9,245.57</u>	<u>2,015.71</u>
TOTAL CHARGES	358,038.85	69,542.30	223,148.05	65,348.50
NET RECEIPTS (DEFICIENCY)	\$ 8,420.60	\$ 2,842.65*	\$ 538.24	\$10,725.01

(\*) Net receipts before provision for Federal income and excess profits taxes.

COMPUTATION OF INDIRECT EXPENSES OF THERMIT DEPARTMENT AS DEFINED  
IN PARAGRAPH FIVE OF AGREEMENT DATED JULY 1, 1938 BETWEEN  
APEX SMELTING CO. (AN ILLINOIS CORPORATION) AND  
SOCIETE D'ELECTRO-CHIMIE DE BRIGNOUD (A FRENCH CORPORATION)

January 1, 1940 to April 30, 1942 - Note (1)

	<u>JANUARY 1,</u> <u>1942 TO</u> <u>APRIL 30, 1942</u> <u>NOTE (2)</u>	<u>YEAR</u> <u>1941</u>	<u>YEAR</u> <u>1940</u>
Indirect expenses			
Officers' salaries	\$ -	\$ 27,900.00	\$ 23,900.00
Office salaries	-	15,802.22	12,263.81
Supervision salaries	-	14,995.53	13,798.28
Research salaries	-	8,984.66	6,008.01
Watchmen and janitor	-	8,200.14	5,822.35
Sales salaries	-	7,000.00	6,699.00
Purchase salaries	-	4,775.00	2,325.00
Vacations	-	1,409.00	1,741.00
Additional compensation	-	46,673.00	34,861.00
Real estate, personal property and franchise taxes	-	9,580.85	9,498.16
Telephone and telegraph	-	8,183.41	4,965.56
Unclassified	-	6,279.78	4,534.39
Traveling	-	4,529.15	3,217.40
Dues and subscriptions	-	4,526.94	3,282.97
Pension expense	-	3,232.63	3,315.67
Fire insurance	-	2,765.96	1,770.49
Sales expense	-	2,509.59	2,727.62
Refuse removal	-	2,416.10	1,171.00
Stationery and printing	-	2,339.15	1,571.49
Research supplies	-	1,858.17	1,612.63
Legal and audit fees	-	1,606.71	1,746.66
Postage	-	1,500.66	939.97
Welfare expense	-	1,277.85	1,390.48
Miscellaneous insurance	-	751.43	976.69
Advertising	-	749.50	1,417.75
<b>TOTAL</b>	<b>63,282.48</b>	<b>189,847.43</b>	<b>151,557.40</b>
Percentage applicable to Thermit Department - Note (3)	3.41%	4.87%	1.33%
Amount applicable to Thermit Department	\$ 2,157.93	\$ 9,245.57	\$ 2,015.71

Note (1) - Operations of the Thermit Department for the period from July 1, 1938 to January 1, 1940 were experimental and no indirect expenses were charged thereto.

Note (2) - Indirect expenses for the period from January 1, 1942 to April 30, 1942 are estimated to equal one-third of the indirect expenses for the year 1941.

Note (3) - The percentage of indirect expenses applicable to the Thermit Department is computed as follows:

Total sales	\$2,124,987.94	\$4,571,869.04	\$4,108,113.81
Sales of Thermit Department	72,384.95	222,609.81	54,623.49
Percentage of Thermit Department sales to total sales	3.41%	4.87%	1.33%

DEFENDANT V'S EXHIBIT "2-C"

February 1, 1943

Mr. Henry J. Leir  
Continental Ore Company  
500 Fifth Avenue\*  
New York, N. Y.

Dear Mr. Leir:

Please accept our thanks for your letter of January 28. I have discussed this matter with both Mr. Starmann and Mr. Singer and we all regret exceedingly to advise that due to the demand upon our time at Apex it would not be advisable to associate ourselves with any other enterprise at this time.

Furthermore, from an investment standpoint, in view of the high taxes, there really is no great advantage to us. As a matter of information to you, however, I would like to call your attention to your plan "a". You will note that you stipulate approximately \$5,000 will be allocated for equipment. As you know, our investment and equipment was considerably higher than that and was greatly inadequate for a sound, efficient business. We believe that you are making a mistake in figuring so small an amount for that item.

I regret exceedingly that I am unable to give you any more favorable news than this. The above explains our attitude at the moment. What the future will bring, we do not know, but we feel it would be inadvisable for any of this at this time.

2524     *Continental Ore Company, et al., vs.*

Defendant V's Exhibit "2-C"—(Continued)

Thank you, however, for your thought in this matter, and with kindest regards, we are

Very truly yours,

APEX SMELTING CO.,  
L. LIPPA.

LL/e

[Letterhead of Continental Ore Company]

Mr. Louis Lippa

Apex Smelting Company

January 28, 1943

2537 West Taylor Street

Chicago, Illinois

Re: Ferro Alloys

Dear Mr. Lippa:

We are at last able to resume the production of ferro vanadium since sufficient raw material is available and fully assured by the WPB.

Inasmuch as we cannot, unfortunately, count on Mr. Starmann at the present time, we have made arrangements with a first-class specialist who is familiar with production not only in the electric furnace but by alumino-thermic and silico-thermic reaction as well.

While reduction by silicon would be somewhat cheaper, we would of course prefer the alumino-thermic process if only to maintain our business relations with you.

And we would prefer also to have you join our

Defendant V's Exhibit "2-C"—(Continued)

new enterprise in one way or another so that you could watch it from the first moment on.

We intend to form a separate corporation in any event for this manufacture according to one of the two following plans:

a) The new corporation to finance the entire business on its own account and keep all the profits. Sales: through C.O.C. on a 2.5% commission basis. Capital: between \$50,000 and \$100,000 of which approximately \$5,000 would be allocated for equipment, the remainder for raw material and working fund.

b) The new corporation to be formed with a small capital: \$1,000, \$5,000 or \$10,000, and with the purpose of converting vanadium oxide only on a toll basis for the account of C.O.C. at cost plus 10%. Financing of raw material, etc., by C.O.C.

We would very much like to have you join us in either combination.

We can tell you that if you personally prefer Proposition B, we would not ask your aid in financing, not even as regards the aluminum, since we have assurances from our bankers concerning an adequate credit.

We believe there are such large possibilities for the future in this field that we would like to be associated with you right from the beginning. We are confident that once the war is over you will be

Defendant V's Exhibit "2-C"—(Continued)

more interested than now in this aluminothermic field.

If Apex as a firm cannot join us, we suggest that Mr. Singer, you and Mr. Starmann come into the new corporation as individuals.

I am enclosing herewith a balance sheet of our firm as of December 31, from which you can see that we have expanded our business again during the past year.

The new enterprise would start with ferro vanadium and later take in

ferro zirconium

ferro titanium

For your information, the business in Van-Ex would be discontinued.

May we hear from you?

Sincerely yours,

/s/ HENRY J. LEIR.

Henry J. Leir.

hjl/ek



Defendant V's Exhibit "2-C"—(Continued)

Continental Ore Company

Balance Sheet

December 31, 1942

Assets

Current Assets

Cash in bank .....	\$ 21,909.35	
Cash on hand .....	242.55	
Accounts receivable .....	122,685.98	
Accounts payable—debit balances .....	37.64	
Merchandise inventory ....	198.40	
Loan receivable .....	1,097.87	
Due from New York State Tax Commission .....	284.91	
	<hr/>	\$146,456.70

Total Current Assets

Capital Assets

Furniture and fixtures .....	693.08	
Less:		
Reserve for Depreciation	—15.04	
	<hr/>	678.04

Total Capital Assets

Unexpired insurance premiums .....	317.56	
Security deposits .....	258.33	
Deposit on purchase of equipment .....	112.50	
Investment — 25 shares Preferred Stock in mining corporation .....	2,500.00	

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Total Assets .....\$150,323.13

DEFENDANT V'S EXHIBIT "2-G"

Chicago

January 19, 1942

Continental Ore Corp.

Attention: Mr. H. J. Leir

Gentlemen:

We have your letters of the 15th and the 16th, and we wish to advise that we would prefer not to run the Columbite, but would prefer to have you sell it, and of course while you are not recommending the purchase of additional Columbite at the present time, still we would not be interested in purchasing it.

Mr. Christiansen has returned, and we are now digesting his information and will write you in detail tomorrow.

We want you to know that we have been attempting to start the Ferro Department ever since last Tuesday, but we have had a lot of labor difficulty. It so happens that our men are now organizing, and the men that we have had in the Ferro Department refuse to go back into it, as they claim that it is injurious to their health. We have promises from a sufficient number of men to start the Department tomorrow, but each of these men have not promised to stay in the Department over four days. What the outcome of this will be, we cannot yet determine, but we will keep you advised.

We also note letter addressed to Mr. Singer. As you know, Mr. Singer is now with the OPM, but we will try to get your letter to him.

Very truly yours,

LL:FS

Defendant V's Exhibit "2-G"—(Continued)

January 13, 1942

Chicago

Continental Ore Corporation

Attention: Mr. H. J. Leir

Gentlemen:

We have your letter of January 12th, and wish to advise that our Mr. Christiansen will be in Washington this week, at which time he will go over this entire matter with the Vanadium Section of the OPM. After receipt of his report, we will contact you and advise you regarding the results.

We note the article you sent to us from Business Week, but we do not feel that we can consider this as authoritative, as the orders as given out by the OPM are specific, and we would not have any excuse to deviate from those orders.

We hope to get into production on Ferro Alloy this week, although we are having some difficulty with the labor, as most of them refuse to go to work in that Department. As you know, we have been trying to secure the proper respirators, but somehow or other, we have never been able to get any that keep the dust from getting into the men's throats and nostrils.

However, we will try to overcome this the best way we possibly can.

Very truly yours,

LL:FS

2530 *Continental Ore Company, et al., vs.*

DEFENDANT V'S EXHIBIT "2-H"

(Copy) Apex Smelting Co.

2537 W. Taylor St., Chicago, Ill.

April 23, 1942

Vanadium Corporation of America

420 Lexington Avenue

New York City, N. Y.

Att: Mr. Gustav Laub, Vice President

Gentlemen:

In accordance with conversation our Mr. Christiansen had with you, we are pleased to enclose an equipment inventory of our Ferro Alloy Department which we desire to sell.

This list does not include all the equipment used in that department, since we find use for the rest of it in our aluminum production.

We would appreciate very much if you will advise us by return mail whether this will be of any interest to you.

We are greatly in need of the space and therefore are anxious to move these items as quickly as possible.

Incidentally, if your Chicago office would like to inspect this material, we want you to know that they will be welcome to do so.

Very truly yours,

APEX SMELTING CO.

L. Lipka.

LL:L

encl.

EWC

Received April 24, 1942—G. L.

Defendant V Exhibit No. "2-H"—(Continued)

(Copy) Apex Smelting Co.

Ferro Alloy Department Equipment

Inventory:

New Value

Item 1: Allis-Chalmers 7" x 9" Dodge steel frame jaw crusher # 3604, 36" x 4" double flywheel, 9 strand V belt motor drive, 32" centers, 30" grooved drive pulley, 7" grooved motor pulley. Master 10 H. P. induction motor #IN714, type PA, 3 phase, 60 cycles, 220 volts, 1150 R.P.M., Wadsworth 60 amp. 250 volt enclosed switch. \$1052.12

Item 2: Allis-Chalmers 7" x 9" Dodge C. I. frame jaw crusher #3599 with Allis-Chalmers 9-strand 10 H. P. Texrope drive. 30" centers, Master 10 H. P. induction motor #IM12, type PA, 3 phase, 60 cycles, 220 volts, 1150 R.P.M. 836.89

Item 3: Swinging jib crane 5" x 15' pipe mast with top and bottom ball bearings. 2" x 14' pipe jib, 2 winches and 3' wire cable. 157.00

Item 4: Twelve 48" x 48"—6" I beam frame industrial crucible trucks, 16" single flange wheel. 600.00

Item 5: A & J Iron and Boiler Works—4 Magnesite or ore dump buckets, 22" deep with sloping front side from top 40" x 20" to bottom 24" x 20". 171.68

2532 *Continental Ore Company, et al., vs.*

Defendant V Exhibit No. "2-H"—(Continued)

Item 6: A & J Iron and Boiler Works—1

Flat bottom crucible form (28" dia.) 41.00

1 round bottom crucible form (28" dia. at  
top of crucible) 53" high — 25" wide at  
bottom. 61.77

Item 7: A & J Iron and Boiler Works—5

sets of crucible rings, 40  $\frac{1}{2}$  rings. Each  
crucible has 4 complete rings, each 49" di-  
ameter and 12" high. 600.00

Item 8: 80 clamps and wedges to fasten the  
crucible rings. 200.00

Received April 24, 1942—G. L.

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DEFENDANT V EXHIBIT No. "2-J"

[Letterhead of Continental Ore Corporation]

Blanding Mines Company                      March 16, 1942  
P. O. Box 895  
Cortez, Colorado

Attention: Mr. Dan Milenski

Dear Mr. Milenski:

We refer to our letter of March 5th, to which we  
have not yet received any reply.

As you can see from the enclosed clipping, prices  
for Ferro Alloys will remain unchanged during the  
second quarter.

However, we have an idea which makes it possi-

Defendant V Exhibit No. "2-J"—(Continued)

ble for us to pay our suppliers an especially high price, which would work out in your case to be as high as \$1.20 FOB Blanding.

If you are interested in a contract, please let us know.

Very truly yours,

CONTINENTAL ORE  
CORPORATION,

/s/ HENRY J. LEIR,

President.

Henry J. Leir/rk

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DEFENDANT V EXHIBIT No. "2-K"

(Copy)

Mr. Henry John Leir  
Continental Oil Company  
500 Fifth Avenue  
New York, New York

February 8, 1944

Dear Mr. Leir:

In line with our telephone conversation yesterday morning, I talked at length to Blanding Mines Company's engineer, Mr. Fred A. Brinker of Durango, Colorado, concerning the probable disposition of his concentrating process.

I find that Mr. Brinker has been in contact with both U. S. Vanadium Company and Vanadium Corporation of America, however, he has dealt with neither and as far as Mr. Brinker is concerned,

Defendant V Exhibit No. "2-K"—(Continued)

he is willing to make an equitable deal with our company. As I advised you over the phone, the process which Brinker discovered while in the employ of Blanding Mines is the separate property of Mr. Brinker.

Brinker has perfected a concentrating process whereby about five tons of ore are concentrated into one. That recovery in this concentration is in excess of 90% of the  $V_2O_5$  and  $U_3O_8$  contained and also, the radium, if any, is in the concentrate. Brinker states that the cost of concentrating would be probably \$1.50 per ton. In view of the fact that the average transportation costs on moving ore to a mill-site are more than this, the process appears to have unlimited possibilities.

Blanding Mines Company controls quite a number of claims and with these claims and others we could acquire or control, it is our opinion that we could, through this process, concentrate and treat the concentrate and recover approximately 50,000 pounds of vanadium and a considerable quantity of uranium every month. Mr. Brinker suggested that if you could spare the time to make a trip to this section that he believes the same highly desirable and advisable for the reason that you could see these properties and could see the mills in this territory and, in addition, you could get a complete picture of the actual mining and milling costs and production practices and problems. Blanding Mines Company's records are kept in great detail and we



Defendant V Exhibit No. "2-K"—(Continued)

have cost analyses of every phase of the operation. We believe that it would be unavailing to meet in any location other than here for the reason that you ought to familiarize yourself with the production of vanadium and uranium.

I believe that Blanding Mines would be interested in working out a joint undertaking or some other arrangement whereby we would work in harmony and to the mutual advantage of each other and that such an arrangement is highly desirable on account of your marketing set-up and your marketing ability and our milling and producing experience.

As far as I am concerned, there is a great deal of uncertainty as to any expansion program by the present owners of Blanding Mines. I anticipate that I will probably be in the Army before long and our organization would like to formulate their plans for the future rather soon.

If we are going to utilize Brinker's process, which is revolutionary, we are going to need additional capital, as I mentioned to you over the telephone. I don't know the exact amount that it will take and we feel that before endeavoring to discuss the possibility of any arrangement with you that you should first see this vanadium producing section and if you could make arrangements to come to either Gallup or Albuquerque, New Mexico, we would be very happy to pick you up and bring you

Defendant V Exhibit No. "2-K"—(Continued)

to Cortez and spend all the time with you that would be needed.

To utilize Mr. Brinker's process, we would need a concentrating mill and a treatment plant; expansion should take care of itself. The costs of recovery by this process will be much less than it has been in the past. Whether or not others would be licensed is another problem.

In the event that you should decide to make this trip, my wife asked me to extend to your wife an invitation to accompany you and to be our guest while you are here. We certainly enjoyed our visit with you in Grand Junction and we certainly hope that you will be able to come to this section.

Your Christmas favor was greatly appreciated.

Very truly yours,

DM:mp

[Western Union Telegram]

DU 10 NL—New York NY Feb 18

Daniel Milenski

Cortez Colo

Will Arrive Grand Junction, La Court Hotel Wednesday Evening, March First and Be Available Thursday and Friday, March Second and Third. Must Leave Grand Junction Friday Evening for Denver. Please Arrange to Come to Grand Junction With Your Associates—Henry J. Leir.

Defendant V Exhibit No. "2-K"—(Continued)

[Night Letter]

Mr. Henry John Leir  
Continental Ore Co.  
500 Fifth Ave.  
New York, New York

Suggest you arrange to have us meet you in Alamosa, you may get train from Denver for Alamosa in the evening. This would permit you to examine our mining and mill records in Durango, Colorado, and then we could go to the mining districts and our mill, and we could take you to Grand Junction if you wish. Deem it advisable for you to have about 3 days in this territory as we desire that you thoroughly familiarize yourself with our operations and holdings.

Dan Milenski.

Agreement Made and Entered into this .... day of March, 1944 by and between Blading Mines Company, a Utah corporation, having its principal place of business in Cortez, Colorado, (hereinafter called "Blading") party of the first part, and Henry J. Leir, E. D. Leir and L. Schloss, co-partners doing business under the firm name and style of Continental Ore Company, 500 Fifth Avenue, New York, N. Y., (hereinafter called "Continental") party of the second part.

Defendant V Exhibit No. "2-K"—(Continued)

Witnesseth

Whereas Blading owns vanadium deposits and has heretofore entered into a lease upon a certain plant of the Defense Plant Corporation, to be used for the manufacture of vanadium pentoxide, and

Whereas Continental is a manufacturer of ferro vanadium by a special secret process and is also engaged in business as a dealer in vanadium and similar products and acts as agent on behalf of producers of vanadium products of all kinds, and

Whereas the parties hereto desire that Continental shall provide to Blading a continuous outlet for the vanadium and similar products manufactured by Blading, including uranium and radium or intermediary products,

Now, Therefore, in consideration of the premises, the parties hereto agree as follows, to wit:

1. Continental undertakes to receive delivery of the entire output of vanadium pentoxide as produced by Blading as the same shall or may be specified for delivery from time to time by Continental but subject to the limitations hereinafter in this agreement contained, and Continental undertakes and agrees upon the delivery thereof to pay to Blading the purchase price thereof, and Blading covenants and agrees that during the life of this contract that it will not sell or offer for sale any vanadium pentoxide unless and until Continental shall give notice that it will not accept delivery of the same, and then only upon the terms and con-

Defendant V Exhibit No. "2-K"—(Continued)

ditions hereinafter in this agreement more particularly provided.

2. Blading agrees that vanadium pentoxide tendered for delivery pursuant to the terms hereof will be fluxed into a material commonly referred to in the market as "Black Oxide" containing at least eighty-five (85%) percent vanadium pentoxide ( $V_2O_5$ ) which said material shall be crushed to ten (10) mesh or less, and shall contain a minimum of sodium ( $Na_2O$ ).

3. Continental agrees upon the delivery of the product as hereinafter provided that it will pay to Blading the current market price for the material which is presently fixed by the parties and which shall remain until further notice One and 10/100 (\$1.10) Dollar per pound vanadium pentoxide contained, delivery including packaging in either bags or drums, at the election of Continental, which said bags or drums shall be returned by Continental to Blading with freight charges collect.

4. The price of One and 10/100 (\$1.10) Dollar per pound vanadium pentoxide is based upon two (2%) percent sodium ( $Na_2O$ ) and such price will be increased or decreased for any sodium ( $Na_2O$ ) above or below two (2%) percent, with pro rata adjustment for fractions.

5. The parties hereto agree that the present price of ferro vanadium based on present market quotations per pound of vanadium contained is as follows:

Defendant V Exhibit No. "2-K"—(Continued)

Open Hearth Grade	\$2.70
Crucible Grade	\$2.80
Primos Grade	\$2.90

In the event that Continental by reason of competitive conditions in the market for ferro vanadium shall find it necessary to reduce these prices and that in consequence of such reduction the net profit of Continental shall be less than five (5%) percent, Blading undertakes that there shall be a corresponding reduction in the purchase price to the extent that it shall be necessary in order for Continental to make a net profit of five (5%) percent. Blading shall be entitled in its discretion to grant or refuse such price adjustments. In the event that such price adjustments shall be refused, Continental shall thereafter be released from the obligation to specify or to accept deliveries or to make payment for any additional quantities of vanadium pentoxide. In the event that after such reduction it shall be determined upon an actual sale of the product that the profit of Continental in connection with such deliveries upon which the price shall have been reduced is in excess of five (5%) percent, Continental shall in turn account to Blading for any excess over said five (5%) percent.

6. If at any time during the term of this contract Blading shall accumulate a quantity of vanadium pentoxide equivalent to two months production and Continental shall fail to specify or receive delivery thereof, from and after such period Blad-

Defendant V Exhibit No. "2-K"—(Continued)

ing shall be entitled to sell the amounts so accumulated and Continental shall be relieved from any liability or responsibility on account of any such deliveries as to which it shall not have specified or received delivery. The right of Blading to sell such quantities shall, however be conditional and they shall not be privileged to sell said vanadium pentoxide or any part thereof at a lesser price nor upon terms more favorable than Continental has indicated its willingness to pay therefor.

7. Blading hereby appoints Continental its exclusive sales agent for all other products excluding vanadium pentoxide but including vanadium, uranium, radium and other intermediary products as it shall or may product and/or the tailings from any such production or portion, and Blading undertakes and agrees to pay to Continental a commission of two and one-half ( $2\frac{1}{2}\%$ ) percent on the net price of the product, after all discounts. The net sales price in each case shall be the price f.o.b. Blading's plant at Cortez, Colorado or such other point or points of production as shall be selected by Blading. Such commission shall be paid monthly on or before the 10th day of the month following the month in which payment for shipments shall have been made.

8. In the event that Blading shall produce over a period of . . . . . months a quantity of fifty thousand (50,000) pounds vanadium pentoxide contained per month and it shall be apparent that



## Defendant V Exhibit No. "2-K"—(Continued)

such production can be maintained over a reasonable period thereafter, Continental undertakes to construct a plant in the State of Colorado for the utilization of its process for the manufacture of ferro vanadium. In the event that such plant shall be erected by Continental, all ferro vanadium produced from such plant shall be sold by Continental and after Continental shall have paid the expense of such manufacture and deducted a reasonable amount for amortization and the sum of five (5%) percent upon the net sales price as profit, the balance received upon the sale of said product shall be paid to Blading.

9. Continental agrees to cooperate with Blading in connection with the production, refinement and manufacture of uranium and/or radium and/or intermediary products thereof and to put at the disposal of Blading all technical and engineering information and data in the possession of Continental with reference thereto and to consult with Blading with reference to the production and/or the metallurgical or chemical processes to be employed. Continental further agrees that it will at all times place at the disposal of Blading any and all information with reference to the production and sale of the products which it is authorized to sell as agent, and that Continental will report to Blading from time to time, as in the discretion of Continental it shall be necessary, all changes in market conditions and the development of new



Defendant V Exhibit No. "2-K"—(Continued)

sources of supply for raw materials and other information likely to be of assistance to Blading, and Blading agrees to communicate like information in its possession.

10. Blading undertakes and agrees to procure from its stockholders an undertaking that such stockholders will not sell or dispose of their shares or any part thereof or hypothecate or pledge the same without the consent of Continental, and that Continental shall be entitled to cancel the within contract upon such sale and shall be entitled to receive from each of said stockholders a sum equal to (    ) percent of the purchase price received by any such stockholder.

11. It is agreed that the term of this contract shall commence on the . . . . day of March, 1944 and shall continue for a period of twenty years thereafter.

In Witness Whereof Blading has caused these presents to be executed by its officers and Continental has hereunto set its hand and seal.

**BLADING MINES COMPANY,**

By .....

President.

.....  
.....  
.....

Defendant V Exhibit No. "2-K"—(Continued)

[Letterhead of Blanding Mines Company]

[Handwritten Note: Contract to be signed also by UTE Mining Co.]

Mr. Henry John Leir

March 24, 1944

Continental Ore Company

500 Fifth Avenue

New York, New York

Dear Mr. Leir:

We received the draft of contract prepared by your attorney and this morning we wired you as follows:

"Contract received—Some points need clarification. We suggest while these points are being discussed that you agree by letter to purchase our entire output up to 20,000 pounds vanadium pentoxide per month for period of nine months at price of \$1.10 per pound contained of 85% grade or better less carload freight Utah shipping point to New York. Letter follows."

The proposed contract is somewhat different from what we discussed in Grand Junction and we desire the following points to be definitely covered, changed, or clarified, namely:

In paragraph No. 1 of your contract, the recital is "Continental undertakes". Throughout this contract we notice that Continental "undertakes", and in most instances, Blanding "agrees". Paragraph No. 1 also states that you will receive delivery of the entire output of vanadium as the same may

Defendant V Exhibit No. "2-K"—(Continued)

be specified from time to time for delivery. This is definitely objectionable and we insist that you agree to take our entire output up to 50,000 pounds of  $V_2O_5$  contained. Of course, at the present time we can only make about 15,000 pounds per month and as per our conversation with you in Grand Junction, we realize that we will need financial assistance to increase the output above 15,000 pounds. Paragraph 1 is further objectionable in that the privilege is left with Continental to give notice that it will not accept delivery. If Continental would not accept delivery, we could only sell upon such terms and conditions as you have set forth. We believe the contract should be a contract in which you would unconditionally agree to buy and we agree unconditionally to sell, however, if you would desire or need some arrangements to cease buying, we believe that at least six months notice should be given. Of course, some other arrangements might be worked out for your protection in the event the market should decline to the point where you could not accept. The suggestion of six months notice is purely arbitrary and three months might be sufficient.

Paragraph 2 of your proposed contract recites that the material should be crushed to a No. 10 mesh or less. We believe that this should be changed to  $\frac{1}{4}$ ", however, as per our conversation, if we find it practical and feasible to granulate the same to a No. 10 mesh or less, we will do so.

Defendant V Exhibit No. "2-K"—(Continued)

Paragraph No. 3 states that delivery shall be made in bags or drums at the election of Continental. It was our impression that you were to pay the return freight charges on the drums. If you are not willing to do this, we believe that we should have the right to elect whether it should be shipped in bags or drums.

As to Paragraph No. 4 in which you recite the 2% Sodium oxide ( $\text{Na}_2\text{O}$ ), it was our understanding that this was to be based on Sodium ( $\text{Na}$ ) and we now suggest that the minimum Sodium content be based upon our average sodium content in the fused black which we have made in the past. We believe that we can hold the Sodium to a minimum, however, we desire to ascertain what the Sodium content was in our former production before we could commit ourselves to hold it to an agreed minimum. After we had agreed upon the minimum, the pro-rated adjustments, either upwards or downwards, could easily be arrived at. In this connection, we submit that there is nothing in the proposed contract which clarified the adjustments which should be made.

Paragraph No. 5 states that the price is based on the present ferro vanadium price and you quote the three grades. We believe that this should be modified and be based upon the grade which you make and upon the price which you receive for such product. Paragraph No. 5 is definitely objectionable in regard to the 5% net profit to Contin-

Defendant V Exhibit No. "2-K"—(Continued)

tal. Since we have no guarantee as to our net profit, we believe that you should have no guarantee as to your net profit, as we have no control over your costs and it would be impossible for us to agree on a definition of your term "net profit". Likewise, all market policy is beyond our control.

Our objections to Paragraph 6 are included in our objections outlined in Paragraph 1.

As to Paragraph No. 7, we believe that uranium and radium and other intermediary products should be covered by separate contract and before we would endeavor to contract on those items, we would have to be informed of the market for such products so that we could ascertain whether or not it would be economically practical for us to make the change in the milling process to recover such other products and in what form we should recover them. In the event that we could economically recover such other products, we would have no objection to the 2½% commission. Of course, all points in connection with the sale of products other than vanadium should be further discussed when we are advised of the market price.

Paragraph No. 8 appears to be satisfactory except that no mention is made of the exact number of months that the 50,000 pound production should be required.

In Paragraph No. 9, we note that disclosure of certain information is reserved to the discretion of Continental. We believe that such reservation

Defendant V Exhibit No. "2-K"—(Continued)

should be eliminated. If you are our exclusive selling agent and broker, we should certainly receive all information concerning the market conditions, development of new sources, etc.

Paragraph No. 10 is objectionable in that until such time as you have some financial interest with us, that restriction should not be made concerning our transfer of stock. In addition to this, any of our stockholders should be able to sell to the remaining stockholders without any restriction whatsoever, although, if you desire some evidence of us not selling our stock to others, we would be willing to agree that the three major stockholders or their heirs will, during the continuance of this contract, maintain controlling interest in Blanding Mines Company. We feel this would give you all protection needed. Also, in the event of a transfer of any stock to other than a present stockholder, you would have the first right and privilege to buy said stock. In addition, if we agree along those lines, Continental Ore should rightfully agree that it will not sell its business.

It was our understanding in Grand Junction that if our concentration process was a success that you would be willing to assist us financially in increasing our production facilities. It occurs to us that this should be included in the contract.

As to the Association, we are somewhat at a loss to ascertain the correct procedure in organizing such an association. We are perfectly willing to

Defendant V Exhibit No. "2-K"—(Continued)

organize such an association but no member of our organization will accept the Presidency thereof. In addition, as you have been advised, Sitton is indifferent to our proposition. We had a verbal agreement with him in Grand Junction. When we attempted to reduce it to writing, we could not do so to his satisfaction. On or about the 12th day of March, he agreed that he would have an attorney of his choosing to meet with us immediately to discuss the matter further, and to date we have heard nothing more from him, consequently, we do not feel that Sitton should be further considered or consulted in the matter of this association. It also appears to us that at the present time there are only two independent producers, namely, Gateway and Blanding. We believe that other so-called "independent" producers are using suggestions outlined in Grand Junction for their benefit in negotiating for the sale of ore to major companies.

In my last conversation with Gardner, Gardner mentioned that he was in a hurry to get some sort of an organization. He didn't seem to care exactly what provisions were contained in the articles and the important thing being the organization. I told Mr. Gardner that if there was an organization that it should be a marketing organization so that any signor who produced ore would have to agree that when any other member of the organization desired to purchase his ore that he would do so at

Defendant V Exhibit No. "2-K"—(Continued)

the same price that the member was then getting. As a further precaution, that the sales price of all ore should be a matter of record with the association. This would thwart individual deals and we note that in the past that the selling price received for ore has usually been based upon the individual's dealing ability and not on the type of ore or a uniform market policy.

In connection with the association, we would like to have your ideas concerning the same in connection with the problems which I wrote to you about some days ago.

Very truly yours,

BLANDING MINES COMPANY,

/s/ By DAN MILENSKI.

DM:mp

Blanding Mines Company  
P. O. Box 895  
Cortez, Colorado

March 27, 1944

Attention: Mr. Dan Milenski  
Re: Vanadium

Gentlemen:

We are in receipt of your wire of March 24th, and after considering all angles, we feel that at the present time it would not seem advisable for us to enter into a contract as suggested by you, without the framework of an agreement as outlined in the draft we sent you.



Defendant V Exhibit No. "2-K"—(Continued)

We hope that you will understand our position. We believe that a straight purchase contract does not do justice to the general situation, which should be covered by the agreement that we now have under discussion.

We trust that in the near future you will be able to clarify the points which you say need additional thought.

Looking forward to hearing from you in this respect, we are

Very truly yours,

CONTINENTAL ORE COMPANY,  
Henry J. Leir.

HJL:SG

[Letterhead of Continental Ore Company]

March 31, 1944

Blanding Mines Company of Utah  
P. O. Box 188  
Cortez, Colorado

Att. Mr. Dan Milenski

Re: Vanadium

Gentlemen:

Your letter of March 24 and ours of March 27 no doubt crossed in the mails.

Before entering into further details, we would like to make some general remarks so that you can properly appraise our situation:

When shipments on  $V_2O_5$  from Utah and Colo-

## Defendant V Exhibit No. "2-K"—(Continued)

rado decreased, and at a time when we needed them the most, we decided to make ourselves independent. We created equipment for the treatment of foreign vanadium ores and, frankly speaking, we are not in need of any material from Utah/Colorado today, unless we should want to expand our present business considerably.

We will buy from you only if you are willing to make a long-term contract with us which will protect our interests so that any changes we might make now in your favor (and to the detriment of our own conversion of foreign ores) would not prove harmful to our own interests one day.

As long as your output is only 15,000 pounds per month there are no particular difficulties with regard to our own outlets, but the moment you achieve a larger output, we would like to see an "association" created, because the "association" would give us a better standing in the marketing of the finished product.

The price must be based on the  $\text{Na}_2\text{O}$  contents because whatever  $\text{Na}_2\text{O}$  we have in the acid will absorb a like quantity of  $\text{V}_2\text{O}_5$ .

We would be willing to buy the material in full carloads, which would in turn enable you to make considerable savings on freight and packing. We would accept so-called asphalt laminated paper bags, which we can buy for you at about \$100 per 1,000 delivered Utah, or 10c per bag. The bags can easily contain 100 pounds.

Defendant V Exhibit No. "2-K"—(Continued)

In giving you these advantages the 2% Na<sub>2</sub>O basis which I mentioned in Grand Junction should be reduced to 1% Na<sub>2</sub>O.

We believe that the above will show you our position in the matter, and we await your reaction before going further into the other details which, we are certain, can be worked out to our mutual advantage.

Very truly yours,

CONTINENTAL ORE COMPANY,

/s/ HENRY J. LEIR.

Henry J. Leir.

hjl/se

**2554**    *Continental Ore Company, et al., vs.*

**DEFENDANT V EXHIBIT "No. 2-1"**

Henry John Leir  
Continental Ore Co.  
500 Fifth Avenue  
New York, New York

March 24, 1944

Contract Received—Some Points Need Clarification. We Suggest While These Points Are Being Discussed That You Agree by Letter to Purchase Our Entire Output Up to 20,000 Pounds Vanadium Pentoxide Per Month for Period of Nine Months at Price of \$1.10 Per Pound Contained of 85% Grade or Better Less Carload Freight Utah Shipping Point to New York. Letter Follows.

(Copy) /

[Pencil Notes: 110 Price + or — Ferro Grade. Drums returned at his expense or ship in sacks. Furnish—1/4" possibly finer Sodium—average in shipments to V.C.A. Uranium—Future Association —Articles.]

## Defendant Vanadium Corporation Exhibit No. 2-A-

## Statements of Considerations ¶ 33w.

## Statement of Considerations for Regulation No. 489

## I. The Commodities

Tungsten, molybdenum, vanadium, cobalt and other alloying materials, covered by this regulation, are used primarily as alloying elements in the manufacture of iron and steel. Limited amounts are consumed by the chemical and other industries. At the present time consumption of these materials is restricted to war and essential purposes.

Though these alloying materials have somewhat the same general function, each element serves a distinct and separate function in the manufacture of different alloy steels and other products. Each has its own characteristics from a metallurgical standpoint and requires different methods of processing. A brief description of each is set out below.

**Tungsten.** As an alloying material, tungsten imparts qualities of hardness and toughness to steels. It is one of the indispensable elements of high-speed tools, both in the tool steels and the carbides which they are manufactured. Such high-speed tools are essential for rapid fabrication of war implements. Tungsten is also a vital element in steels used in the manufacture of certain types of armor-piercing shells, armor plate, gun barrel liners and breeches, motor valves and seats and propeller blades. In the electrical and electronics field, tungsten is essential for lamp, radio, radar and X-ray filaments, contact points, transformer cores, electrodes and precision control instruments. In the chemical field, tungsten has many uses as a catalyst, such as in the manufacture of high octane aviation gasoline, and is also used in proofing cloth, in tanning leathers, and in many other chemical processes.

Though some of the tungsten consumed is charged into the steel bath in the form of ores and concentrates, the major portion of the tungsten and concentrates is further processed into ferrotungsten, tungsten powder and tungsten compounds. Both in tonnage and dollar value, tungsten is by far the most important, about 70% of the ore and concentrates consumed in the United States being for this purpose. As an alloying material for high-speed and other steels, tungsten is chiefly used in the form of ferrotungsten. Tungsten metal powder finds its principal use in the electrical and carbide fields, while the tungsten compounds are consumed principally by the chemical industry. The compounds are also intermediate products in converting the ore to the form of metal powder.

**Molybdenum.** Although it has come into use more recently than most other principal alloying elements, molybdenum has been widely used in the domestic steel industry during the past decade and has been of particular importance since the outbreak of the present war. This element has many of the characteristics of tungsten; and, because of the relative scarcity of the latter, molybdenum has been widely substituted for it in the high-speed tool steels. Molybdenum is also now being much used in the

## ¶ 33w. Tungsten, Molybdenum, Etc. (Reg. No. 489)

low-alloy National Emergency steels in combination with smaller amounts of the previously accepted alloys for these purposes, such as chromium and nickel. Molybdenum is used in the manufacture of virtually every type of alloy steel. It is usually introduced into steel in one of three forms—ferromolybdenum, calcium molybdate and molybdic oxide, the last being the form most generally used.

In addition, increasing amounts of molybdenum in the form of metal powder are being consumed in the electrical and electronics field; and molybdenum compounds have a diversity of uses in the chemical industry.

**Vanadium.** Vanadium is of prime importance as an alloying material in three general classes of steel products: (1) large forgings, castings and armor plates, (2) dies, taps and drills, and (3) high-speed tools. The vanadium content in these products is relatively low, running from 0.15% to 2.25%. Vanadium, however, has a greater effect than any other element in enhancing the tensile strength and hardness of steel without impairing its toughness. About 80% of the vanadium consumed is in the form of ferro-vanadium which is usually produced from vanadium pentoxide—an intermediate product processed from vanadium ores and concentrates. Very small amounts of concentrates are charged directly into the steel bath. In addition, vanadium in the form of compounds is used for catalytic and other purposes, and limited amounts are produced in the form of metal.

**Cobalt.** Cobalt is consumed commercially in the form of metal, oxides, hydrates and salts. Practically all the metal is cast into rondelles, with minor amounts being produced and sold in the form of granules, fines and powder. During the past few years the metallurgical uses of cobalt have increased many fold and it is estimated that over 90% of the United States consumption of cobalt is now used for these purposes. Prior to 1940, the principal uses of cobalt were in the non-metallurgical fields—for ceramics, protective coatings, inks and chemical purposes.

About 50% of the cobalt being consumed in this country currently is used in the manufacture of the stellite and carbide types of alloy which are used for high-speed cutting edges on machine tools. Cobalt gives to an alloy the ability to retain a sharp edge under extreme heat—a characteristic known in the industry as "hot-hardness." Cobalt is also used for this purpose in high-speed steels.

Stellite-type molten non-ferrous alloys are becoming increasingly important in the manufacture of certain types of aviation motor accessories and searchlight reflectors for the armed forces.

Another characteristic of cobalt is its magnetic qualities and it serves as an alloying material in the better magnet steels. Some of these steels contain as much as 35% cobalt.

**Ferrophosphorus.** Ferrophosphorus is an alloy of iron produced by smelting phosphate rock in electric furnaces. Almost the entire production currently is of the 23-26% phosphorus grade. Ferrophosphorus is added to steels used in the manufacture of thin steel sheets for containers and for galvanizing purposes. The addition of phosphorus to steel gives it brittleness and prevents cohesion when several sheets are rolled in one operation. In foundry operations, ferrophosphorus is also used for certain types of castings in order to assure fluidity.

wholesalers, manufacturers or producers of such commodity, and that this relationship subjects sellers at retail of such commodity generally to substantial liability, should immediately communicate such information in writing to the Retail Trade and Services Division, Office of Price Administration, Washington, D. C., so that the Price Administrator may take appropriate action.

**§ 1489.19 Petitions for amendment.** Any person seeking a modification of any provision of this General Maximum Price Regulation, or an adjustment not provided for in § 1489.18 of this General Maximum Price Regulation, may file a petition for amendment in accordance with the provisions of Procedural Regulation No. 1 issued by the Office of Price Administration.

#### Definitions and Explanations

**§ 1489.20 Definitions and explanations.** This General Maximum Price Regulation, and the terms appearing therein, unless the context otherwise requires, shall be construed as follows:

(a) "Appropriate field office of the Office of Price Administration" means the district office for the district (or in the absence of such district office, the state office for the State) in which is located the seller's place of business from which his sales are made.

(b) "Appropriate War Price and Rationing Board" means the War Price and Rationing Board for the area in which is located the seller's place of business from which the cost-of-living commodities are offered for sale.

(c) "Commodity" includes commodities, articles, products, and materials and contracts to buy, sell, or deliver any of the foregoing, but does not include real property.

(d) "Delivered." A commodity shall be deemed to have been "delivered" during March 1942, if during such month it was received by the purchaser or by any carrier, including a carrier owned or controlled by the seller, for shipment to the purchaser.

(e) "Establishment" refers to the physical location of the store, shop or other place of business in which commodities or services are sold. Any such establishment shall be deemed to be selling at retail if it has an established practice of making sales at retail.

(f) "Edible feed" includes a mixture or blend of more than one feed ingredient for the purpose of feeding animals, except a mixed feed resulting from the blending or mixing of oil from a single grain.

(g) "Most closely competitive seller of the same class." "Seller of the same class" means a seller (1) performing the same function (for example, manufacturing, distributing, retailing, processing, storing, installing, or repairing), (2) of similar type (for example, department store, mail order house, chain store, specialty shop, cut-rate store), (3) dealing in same type of commodities or services, and (4) selling to the same class of purchaser. A seller's "most closely com-

petitive seller of the same class" shall be a seller of the same class who (1) is selling the same or a similar commodity, and (2) is closely competitive in the sale of such commodities, and (3) is located nearest to the seller.

(h) "Offering price" means the price quoted in the seller's price list, or, if he had no such price list, the price which he regularly quoted in any other manner, except that in the case of sales of commodities by an establishment selling at retail, the offering price shall be the price at which the commodity was offered for sale at the immediate point of sale (for example, the shelves or counters). But "offering price" shall not include a price intended to withhold a commodity or service from the market, or a price offered as a bargaining price by a seller who usually sells at a price lower than his asking price.

(i) "Person" includes an individual, corporation, partnership, association, any other organized group of persons, legal successor or representative of any of the foregoing, and includes the United States, any agency thereof, any other government, or any of its political subdivisions, and any agency of any of the foregoing.

(j) "Price regulation" means a price schedule effective in accordance with the provisions of section 206 of the Emergency Price Control Act of 1942, a maximum price regulation or temporary maximum price regulation issued by the Office of Price Administration, or any order issued pursuant to any such regulation or schedule.

(k) "Purchaser of the same class" refers to the practice adopted by the seller in setting different prices for commodities or services for sales to different purchasers or kinds of purchasers (for example, manufacturer, wholesaler, jobber, retailer, government agency, public institution, individual consumer) or for purchasers located in different areas or for different quantities or grades or under different conditions of sale.

(l) "Raw and unprocessed agricultural commodity or greenhouse commodity." Commodities that are picked, harvested, threshed, ginned, husked, cleaned, baled, boxed, packed, transported, and/or refrigerated, without more, remain "raw and unprocessed". But operations such as slaughtering, freezing, drying, canning, preserving, milling, crushing, straining, centrifuging, shelling of peanuts, and purifying with heat, constitute processing for this purpose. For purposes of this General Maximum Price Regulation, flowers, seeds, and bulbs shall be agricultural or greenhouse commodities. Forest products, such as lumber and naval stores and mineral products, whether processed or unprocessed, shall not be deemed to be agricultural commodities.

(m) "Records" includes books of account, sales lists, sales slips, orders, vouchers, contracts, receipts, invoices, bills of lading, and other papers and documents.

(n) "Replacement cost" shall be the net price paid by the seller after May 18, 1942, or the net price which the seller

would have to pay to replace such commodity after such date.

(o) "Sale at retail" or "selling at retail" means a sale by selling to an ultimate consumer other than an industrial or commercial user, except that for the purposes of § 1489.4 of this General Maximum Price Regulation a "sale at retail" shall not include any sale by a producer, manufacturer, or fabricator of any commodity produced, manufactured, or fabricated by him.

(p) "Sale at wholesale" means a sale by a person who receives delivery of a commodity and resells it, without substantially changing its form, to any person other than the ultimate consumer.

(q) "Securities" includes any note, stock, bond, and interest or instrument commonly known as a "security".

(r) "Sell" includes sell, supply, dispose, barter, exchange, lease, transfer, and deliver, and contracts and offers to do any of the foregoing. The terms "sale," "selling," "sold," "seller," "buy," "purchase" and "purchaser," shall be construed accordingly. Nothing in this General Maximum Price Regulation shall be construed to prohibit the making of a contract to sell a commodity or service at a price not to exceed the maximum price at the time of delivery or supply.

(s) "Seller" includes a seller of any commodity or service. Where a seller makes sales or supplies services through more than one selling unit, other than salesmen making sales at uniform prices, each separate place of business of the seller shall be deemed to be a separate seller, except that for the purposes of § 1489.18 of this General Maximum Price Regulation, the owner of the business shall be considered the seller regardless of the number of separate places of business he owns.

(t) "Service" includes any service rendered or supplied, otherwise than as an employee, in connection with the processing, distribution, storage, installation, repair, or negotiation of purchase or sale of a commodity, and generally, without limiting the foregoing, all services which reserve or add to the value or utility of a commodity.

(u) "Supplied". A service shall be deemed to have been "supplied" during March 1942, if during such month it was completed or in process.

#### Other Price Regulations, Applicability, Effective Date

**§ 1489.21 Effect of other price regulations.** This General Maximum Price Regulation shall not apply to any sale or delivery for which a maximum price is in effect, at the time of such sale or delivery, under the provisions of any other price regulation issued, or which may be issued, by the Office of Price Administration.

**§ 1489.22 Applicability.** The provisions of this General Maximum Price Regulation shall be applicable to the United States, its territories and possessions, and the District of Columbia.

**§ 1489.23 Effective date.** All the provisions of this General Maximum Price



## Defendant Vanadium Corporation Exhibit No. 2-A--(Continued)

**Statements of Considerations Q 33w.**

**Alloys and Metals.** In addition to the alloying elements discussed this regulation covers a number of special alloys, known in the trade as hardeners, intensifiers or purifiers.

Special alloys usually represent a combination of a number of elements such as vanadium, boron, manganese, zirconium, and aluminum combined frequently with silicon. Each of the various combinations marketed carries its own brand name, and is produced by only one manufacturer. The addition of these special alloys to steel produces results somewhat different from those obtained by the use of the various contained elements separately. Their use in the combination provided by the special is desirable in certain types of steel.

**II. The Industries**

The output of each of the commodity groups covered by this regulation, to a great extent, accounted for by different producers and processes, although certain companies produce more than one commodity. In some cases companies are completely integrated from ore to finished products, while a number of companies limit their operations to mining minerals containing the elements or to processing the alloys, metals and compounds. In no case does any one company dominate the production of all of the commodities covered by this regulation. Accordingly, it is in order to describe briefly each industry.

**Tungsten.** Approximately one-half of the tungsten ores normally consumed during peacetime in the United States is domestically produced, the balance being imported from distant sources, the most important of which are China, British Malaya, Bolivia, Australia, Argentina, Mexico, and Thailand.

Approximately thirty concerns are producing tungsten ores and concentrates in appreciable quantities in this country. Three firms account for more than three-fourths of current production; the other producers produce smaller quantities and their output is currently sold to the Metals Reserve Company at prices above the world market prices.

In addition, the Metals Reserve Company serves as the government marketing agency for all imported ores as well as certain other domestically produced ores. The sale of ores so stockpiled by the Metals Reserve Company accounts currently for approximately three-fourths of the tungsten ores and concentrates consumed. The sale of such ores and concentrates is at prices approved by the Office of Price Administration.

Tungsten ores and concentrates are processed in one or more forms by twenty concerns and are charged directly by about ten steel companies. Two companies are responsible for the entire production of ferro-tungsten and these companies also produce metal powder and compounds. The major portion of the metal powder is produced for their consumption by companies engaged in the manufacture of electrical, electronic and electronics material and equipment. The metal powder is sold in ingots and swaged and drawn to wire and rods for these uses. In addition, these producers also supply metal powder for the manufacture of carbides and other materials. Limited amounts of metal powder and compounds, which are used primarily for processing into metal powder, are produced by small, independent firms.

**Q 33w. Tungsten, Molybdenum, Etc. (Reg. No. 449)**

Very little integration exists in the tungsten industry. Only two processors of ores and concentrates own or control tungsten mining properties which are capable of supplying an appreciable amount of the ores and concentrates consumed. In general the processors as well as the three major producers of ores and concentrates are in a favorable financial position.

Sufficiently detailed information on the production of ferrotungsten, tungsten metal, tungsten carbide powders and compounds for years prior to the outbreak of the present war is not available to estimate the value of their total output. However, a very substantial increase over peacetime production has been accomplished, and it is estimated that the 1943 combined value of tungsten products and ores and concentrates consumed will exceed \$95,000,000. The average annual value of ferrotungsten alone produced during 1936-40 was about \$6,000,000, and the aggregate value of the ores and concentrates consumed for the period averaged about \$6,225,000 per year.

**Molybdenum.** The United States is the world's major source of molybdenum, accounting for about 90% of the world output during the period 1936-40. Prior to the outbreak of the present war, about 70% of the domestic production was exported. At the present time exports are limited to those handled through the Office of Economic Warfare, the Office of Lend-Lease Administration and to Canada through the War Production Board. Limited amounts of ores and concentrates are being imported mainly for government stockpiling purposes.

The domestic molybdenum industry is integrated in large measure. One company which accounts for about 70% of the total production of ferromolybdenum, calcium molybdate, molybdic oxide and other compounds and metals, owns and operates the mine from which its concentrates are obtained. The remaining concentrates produced in this country are obtained largely as a by-product of copper mining operations. Most of the concentrates so obtained are processed by two other companies, one a steel producer and one a producer of other alloys. Small quantities of molybdenum compounds are also produced by ten additional companies. All major factors in the industry are in a favorable financial position.

The average annual value of domestic mine shipments of molybdenum ores and concentrates for the period 1936-40 was \$17,965,000. Similar data are not available for the value of the output of molybdenum products. The expansion in production and consumption of molybdenum as a result of war demands has been one of the notable developments in the alloy field. The combined value for 1943 of molybdenum products produced and ores and concentrates consumed is estimated to exceed \$95,000,000.

**Vanadium.** In its mineral form vanadium is derived from two main sources. About 35% of the vanadium ores and concentrates consumed in this country are of Peruvian origin and domestic vanadium ore deposits furnish most of the remaining 65%. Minor amounts of vanadium are obtained from flue dust, from boilers burning Venezuelan fuel oil, from phosphate rock mined in Idaho and from a complex gold-silver-lead-molybdenum-vanadium ore mined in Arizona. A little lead vanadate ore is imported from South Africa.

The ore and concentrates are generally roasted and leached into vanadium pentoxide, which, by electric furnace reduction, is converted into ferrovanadium. Virtually 100% of the production of ferrovanadium is in the

## FEDERAL REGISTER, Thursday, April 30, 1943

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Regulation shall become effective on May 11, 1943, except that:

(a) The provisions of this General Maximum Price Regulation, other than § 1499.11 (a), shall not apply to establishments selling at retail until May 12, 1943;

(b) The provisions of §§ 1499.1 and 1499.2 shall not apply to any sale of services at retail until July 1, 1943; and

(c) The provisions of § 1499.11 (a) shall become effective upon the date of issuance of this General Maximum Price Regulation.

Issued this 28th day of April 1943.

Law Harmonson,  
Price Administrator.

§ 1499.24 Appendix A: General Maximum Price Regulation—Report of maximum price determined under § 1499.2 (a).  
To: Office of Price Administration  
From: \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

The undersigned hereby reports its determination, made in accordance with § 1499.2 (a) of the General Maximum Price Regulation, of the maximum price for the commodity described in Item 1 below.

1. Brief description of commodity for which a maximum price is reported: \_\_\_\_\_

2. Reasons why price could not be determined on the basis of a cost or other commodity data in by the undersigned or a competitive seller during March 1942: \_\_\_\_\_

3. (a) General classification in which the undersigned classifies the commodity for which maximum price is reported: \_\_\_\_\_

(b) Name of comparable commodity in this general classification and price range of which the undersigned delivered the largest number of units during March 1942 (referred to hence as "comparable commodity"): \_\_\_\_\_

4. The maximum price reported was determined from calculations A, B, and C below, in accordance with instructions printed in § 1499.24, Appendix A, of the General Maximum Price Regulation:

A. Comparable Commodity:

Col. (1)	Col. (2)	Col. (3)	Col. (4)	Col. (5)
Name	Unit of price	Replacement cost per unit	Maximum price per unit	Percentage (col. 4 divided by col. 3)
Example Commodity X.....	Each	14.00	14.00	100

B. Cost per unit of commodity for which maximum price is reported: \_\_\_\_\_

C. Maximum price reported per unit: \_\_\_\_\_  
(Item C is multiplied by percentage, Item 4A, Col. 5)

I swear (or affirm) that to the best of my knowledge and belief, the above statements are true.

(Sign) \_\_\_\_\_

(Address) \_\_\_\_\_

## Instructions

Section 1499.2 (a) of the General Maximum Price Regulation provides for the determination of a maximum price by a seller for commodities which cannot be priced under the provisions of § 1499.2. Any seller who has determined a maximum price under § 1499.2 (a) is required, within 10 days after such determination, to report such price to the appropriate field office of the Office of Price Administration.

The following instructions must be followed in completing this form:

Item 1. Name the commodity for which the price is reported; indicate its use, unit, size, package, etc.

Item 2. Indicate how commodity for which price is reported differs from other commodities sold by seller, or competitive sellers of the same class, during March 1942.

Item 3. (a) Insert general classification (food, hardware, clothing, etc.), in which the seller classifies the commodity for which a maximum price is reported.

(b) Insert the name of comparable commodity in the same general classification and price range of which the seller delivered the largest number of units during March 1942.

Item 4-A. Column 1: Name of comparable commodity.

Column 2: Insert unit of pricing, e. g., pound, quart, garment, etc.

Column 3: Insert replacement cost per unit. Replacement cost shall be net price per unit paid by the seller after May 12, 1942, or the net price which the seller would have to pay to replace the comparable commodity after such date.

Column 4: Insert the maximum price per unit established in accordance with § 1499.2 of General Maximum Price Regulation.

Item 4-B. Insert net cost per unit of commodity for which price is reported.

Item 4-C. Calculate maximum price reported per unit as follows: Multiply unit cost (4-B) by percentage (4-A, column 5).

§ 1499.24 Appendix B: Commodities designated by the Price Administrator as cost-of-living commodities.

Note: For the commodity classifications marked by asterisks, maximum prices may be posted by price-lines at the place in the business establishment where the commodities are offered for sale, provided that, in addition, the selling price of each commodity in such classification shall be marked on the commodity itself.

See § 1499.12 of this General Maximum Price Regulation.

## TOBACCO, BEVER, TOILETRIES, AND SUNSHINE

(All brands, grades, and sizes, except where otherwise indicated)

## Tobacco:

Cigarettes.  
Smoking tobacco, in cans and packages.

## Packaged household drugs:

Aspirin tablets.  
Milk of magnesia, liquid.  
Cod liver oil, liquid.  
Epsom salts.

"Net price" (or "net cost") shall be the price paid after deducting all discounts allowed to, and adding transportation and delivery charges paid by, the seller.

## Packaged household drugs—Continued.

Boric acid.  
Castor oil and mineral oil.  
Witch-hazel and rubbing alcohol.  
Toiletries and sundries:  
Hand and toilet soaps.  
Dentifrice (paste, powder, and liquid).  
Shaving cream.  
Toothbrushes.  
Sanitary napkins.  
Razor blades.  
Facial tissues.  
Infants' food: All types.  
Ice cream: Bulk and packaged.

## APPAREL AND YARD GOODS

## Men's and boys clothing:

\*Suits, business and sport.  
\*Overcoats, topcoats, and raincoats, business and sport.  
\*Trousers and slacks, dress, sport, and wash.  
\*Men's shirts, other than formal.  
\*Pajamas and nightshirts, cotton, wool, and part wool.  
\*Shorts, cotton.  
\*Undershirts, cotton knit.  
\*Union suits.  
\*Hosiery, other than pure silk and pure wool.  
\*Felt hats.  
\*Work shirts.  
\*Work pants.  
\*Overalls and coveralls.  
\*Sweaters.  
\*Mackinaws.  
\*Jackets, boys' only.  
\*Men's work gloves.  
\*Boys' gloves and mittens.  
\*Boys' blouses and shirts.  
\*Boys' snow suits.

## Women's and girls' clothing:

\*Coats, untrimmed and fur-trimmed, sport and dress.  
\*Suits.  
\*Dresses, street and house.  
\*Hosiery, including anklets.  
\*Panties and slips.  
\*Foundation garments and brassieres.  
\*Women's gloves, children's gloves and mittens.  
\*Skirt.  
\*Blouses and shirts, tailored, rayon or cotton.  
\*Sweaters.  
\*Nightgowns and pajamas, other than silk.  
\*Bath and house coats, flannel and cotton.  
\*Children's overalls, slacks, sunsuits and shorts (cotton only).  
\*Children's snow suits.  
\*Children's jackets.

## Infants' clothing:

\*Diapers.  
\*Dresses, other than silk.  
\*Shirts.  
\*Blouses.  
\*Sleeping garments.  
\*Coats, cotton, wool, part wool.  
\*Snow suits.  
\*Sweaters.  
\*Sunsuits (cotton only).

## Yard goods:

\*Cotton yard goods.  
\*Rayon yard goods.  
\*Wool and mixtures of wool.

## Footwear:

\*Street, work, dress, and sport shoes for men, women, and children.  
\*Infants' shoes.  
\*Rubber footwear.

## FOOD AND HOUSEHOLD SUNSHINE

## Meat

Fresh beef:  
Rib roast.  
Chuck steak.  
Top round steak.  
Rump roast.  
Chuck roast.  
Beef liver.  
Ground round steak.



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hands of two companies with plants at Columbiana, Ohio, Bridgeville, Pennsylvania, Niagara Falls, New York and Alloy, West Virginia. Three grades are produced: open hearth, crucible and primos. Eleven companies produce vanadium pentoxide and the vanadium compounds and metal are produced by the same companies who produce ferrovanadium. In addition, some compounds are also produced by one other concern.

A high degree of integration exists in the vanadium industry. The largest producer of ferrovanadium owns the Mina Ragra in Peru which is its major source of raw materials. The other producer obtains its ores from domestic mines owned by an affiliated company. Both companies are in a favorable financial position.

In tonnage and dollar value vanadium production is not large in comparison with other alloys, but in value per pound it is the highest of the major alloys, averaging \$2.80. During 1936-40 ferrovanadium production showed an average annual value of \$3,495,000 while the average annual value of pentoxide production for the period was about \$2,750,000 and ores and concentrates consumed was about \$1,515,000. This rate of production has been expended very substantially due to war demands. For 1943 it is expected that the combined value of ferrovanadium, pentoxide and ores and concentrates will exceed \$22,000,000.

**Cobalt.** The United States has been almost entirely dependent on imports for its supply of cobalt in the past. Prior to the outbreak of the present war the major portion of the cobalt imported was in the form of metal, oxides, salts and hydrates which were produced in Belgium from Belgium Congo ores and crudes. Less significant amounts of ores and crudes were and continue to be imported from Canada and converted to oxides and hydrates by one concern in this country. In addition, small amounts of metal, oxides and hydrates were produced by another company from domestically mined crudes. The production of metal by this concern has since been expanded.

When Belgium was occupied by Germany in 1940, the Belgium interests, which controlled the cobalt mining enterprise in the Belgium Congo, arranged for the importation of the crudes into this country and their conversion to metal, oxides, salts and hydrates by a number of American plants on a toll basis. At the present time about 90% of the production of cobalt products in the United States is produced in this manner. This operation may be described as being fully integrated and under foreign control.

The average annual value of imports of cobalt metal, oxides, salts and hydrates for the period 1936-40 was \$2,212,000; and the average annual value of ores and crudes for the same period was \$775,000. These compare with an estimated 1943 combined value of more than \$19,000,000 for metal, oxides, salts and hydrates produced in the United States and for ores and crudes imported.

**Other Alloys and Metals.** Several of the companies regularly producing the major alloys also produce combination alloys classified by this regulation as special alloys. As indicated above these materials are usually sold under brand names and are, in some instances, patented products. Calcium metal, until the outbreak of the present war, was imported from France, but now one company in this country supplies all of the American requirements.

**Ferrophosphorus.** the production of which is relatively small, is currently being produced by two chemical companies and the Tennessee Valley Authority.

**¶ 33w. Tungsten, Molybdenum, Etc. (Reg. No. 489)****III. Price History**

Although materials containing tungsten, molybdenum, vanadium, cobalt and other alloys and metals have been characterized by relative price stability in recent years, the price movement in each group has been largely independent of the others because different cost factors are involved in the production of each and because their interchangeability in consumption is limited.

A brief resumé of the price history of each of the major items for which specific dollars-and-cents maximum prices are provided by the regulation is set forth below.

**Tungsten.** Of all the commodities covered by this regulation, the price of ferrotungsten has been the most volatile. Prior to World War I, ferrotungsten sold at a base price of about \$1.00 per pound of contained tungsten. Due to the pressure of demand and scarcity of supply, prices advanced sharply to a reported high of \$8.50 in 1916, receding thereafter to a yearly average of \$2.30-\$2.40 in 1917-18.

Following the war the price returned to the levels prevailing prior thereto, the low point in the monthly average during the Twenties being \$.59 in 1921, and the high \$1.33 in 1929. From 1929 to 1936, the yearly average price fluctuated from \$1.04 to \$1.40. The price from 1937 through October 1939, ranged from \$1.35 to \$2.25 and the yearly average price for 1940 was \$1.97.

The average quoted price for the first ten months of 1941 was \$1.95, and in the fall of that year the price was reduced to \$1.90 by informal agreement of the producers with this Office, effective November 1941. This level was subsequently frozen by the General Maximum Price Regulation, issued April 28, 1942, and has prevailed up to the present time.

**Molybdenum.** The current prices of principal molybdenum products are at the same level which has prevailed since 1932, namely,

Ferromolybdenum	—95 cents per pound molybdenum
Molybdic Oxide	—80 cents " " "
Calcium Molybdate	—90 cents " " "

Prior to 1932, there was a gradual reduction in prices from the World War I high of \$5.00 per pound for ferromolybdenum. (The use of molybdic oxide and calcium molybdate was not developed until the middle Twenties.) By 1925 the price of ferromolybdenum had dropped to \$1.50 per pound and calcium molybdate was first offered commercially during that year at \$1.27 per pound of molybdenum contained. By 1928, the year when molybdic oxide was first offered commercially, the prices were:

Ferromolybdenum	—\$1.20 per pound molybdenum
Calcium Molybdate	— .95 " " "
Molybdic Oxide	— .95 " " "

Approximately the above level continued until 1931 when the prices were reduced 20 cents on ferromolybdenum, and 10 cents on the other two products. Another reduction of 5 cents was made in 1932 to the current levels.

**Vanadium.** The current base prices of ferrovanadium and vanadium pentoxide have remained unchanged since 1934. By informal agreement of the producers with this Office during the fall of 1941, these prices were not

## Defendant Vanadium Corporation Exhibit No. 2-A--(Continued)

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to be advanced without prior notice to this Office. On issuance of the General Maximum Price Regulation on April 28, 1942, they became the ceiling prices for the commodities.

The World War I high reported for ferrovanadium was \$8.00 per pound of contained vanadium. During the Twenties the quoted prices were well above \$3.00 per pound. In 1931 the contract prices were \$3.45, \$3.25 and \$3.10 for the three grades. These were reduced in 1932 to \$3.05, \$3.15 and \$3.30 and to \$2.60, \$2.70 and \$2.80 in 1933 and the present prices were established in 1934.

**Cobalt.** The base price of \$1.50 per pound for cobalt metal in the metallurgical industry has prevailed since October 26, 1939, at which time the price was increased from \$1.36. The latter price was for imported cobalt metal and had been in effect since September of 1937. This Office is informed that the increase of about 10% was made to cover higher costs involved in the production of the metal in the United States as compared to costs in the Belgium plants where the metal had been produced previously and to cover increases in ocean transportation costs on ores and crudes. This base price of \$1.50 became the ceiling price upon issuance of the General Maximum Price Regulation. Cobalt metal for metallurgical uses accounted for over 80% of the total cobalt consumed in the United States in 1942.

The prices of cobalt metal and cobalt oxides were originally established when by far the largest part of the supply was consumed in the ceramic and chemical industries. The present prices of cobalt oxides still reflect this condition but the price of \$1.50 per pound for cobalt metal for metallurgical use represents a concession on the part of the producers in the price of the metal to increase the metallurgical consumption of their product.

**Other Alloys and Metals.** Data on the price history for special alloys and metals are not available for any extended period of time because most of these materials have been developed during recent years. This Office is informed that no major changes in prices have been made by the producers since their production was first undertaken in commercial quantities. Maximum prices prescribed by this regulation are the same as those established under the General Maximum Price Regulation, except for Simanal and Calcium Metal, the prices of which have been reduced by the producers.

The base prices of ferrophosphorus set forth in this regulation as maxima, i. e., \$75.00 and \$58.50 per gross ton for the 23-25% and 17-19% grades, respectively, have been in effect since January 1, 1936. In the six-year period from 1930 to 1936 prices were somewhat lower, having receded from a 1929 level of \$122.50 and \$91.00.

**IV. Necessity for Regulation**

As stated above, tungsten, molybdenum, vanadium, cobalt, and other alloys and metals are subject to the provisions of the General Maximum Price Regulation. The issuance of a specific price regulation with dollars-and-cents ceilings on principal items will serve to define more clearly the maximum prices for the principal types and grades of these alloying materials and to make these prices better known to consumers. A more satisfactory administration of price control by this Office is thereby made possible and compliance by both buyers and sellers will be facilitated.

**¶ 33w. Tungsten, Molybdenum, Etc. (Reg. No. 489)**

tated. Moreover, a specific price regulation affords more direct and positive control and, at the same time, provides a more flexible basis for adaptation of control to meet any contingencies which may arise as a result of the war effort.

Although this regulation is not issued for the purpose of initiating any significant changes in ceiling prices for the materials covered now provided by the General Maximum Price Regulation, nonetheless, certain minor price inequities which prevailed during March 1942 and were frozen by that regulation are corrected.

**V. Justification of Provisions of Regulation****A. Coverage**

This regulation is applicable to all sales and deliveries within the continental United States of tungsten, molybdenum, vanadium, cobalt alloying materials and the special alloys listed.

The importation of processed materials covered by the regulation is exempted from control but their resale in the United States is subject to the same maximum prices as domestically produced materials. In normal times, the importation of tungsten, molybdenum, vanadium, and other alloys and metals in processed form is extremely limited. Instead, this country imports the ores and concentrates which are processed here. Since the outbreak of the war, the imports of ores and concentrates have, as stated above, increased substantially. On the other hand, importation of the processed materials had virtually ceased during the first six months of the current year, as well as in 1942. In the case of cobalt, this element is now being imported almost entirely in the crude form for conversion to metal, oxides, salts and hydrates by plants in the United States.

The only imports of cobalt products in 1942, and thus far in 1943, have been from Canada in the form of metal. These imports have been by the major factor in the industry which imports cobalt crudes from the Belgian Congo for conversion. Most of such conversion to metal consumed in this country takes place in domestic plants. However, limited amounts are converted in Canadian plants and the metal is imported by this firm. Metal so imported has customarily sold at the same price as metal domestically produced.

It is believed appropriate to place ceiling prices on any processed material that may be imported and resold in the United States at some future date at the same levels as domestically produced materials because there is little prospect of imports in appreciable volume and because it is doubtful that the need for a higher price could be demonstrated should the volume of imports increase.

Under this regulation ores and concentrates are specifically exempted from price control. The provisions of the General Maximum Price Regulation, as amended, exempt ores and concentrates, both imported and domestic. It is believed that no useful purpose will be achieved through the establishment of ceiling prices on ores and concentrates containing the elements covered by this regulation. This is believed true for the reason that in the cases of molybdenum, vanadium and cobalt a high degree of integration exists between the mining, milling and smelting operations. In the case of tungsten, about three-fourths of the new supply

## Defendant Vanadium Corporation Exhibit No. 2-M--Continued)

## Statements of Considerations ¶ 33w.

and concentrates is now under the control of the Metals Reserve Company through its stockpiling activities. An agreement has been entered into between this Office and that company as to appropriate prices for material in sales to the consumers. Because such prices have been established and are well known to consumers, a de facto stabilization has been accomplished and no need for a regulation exists.

## B. Prices

The maximum prices established by this regulation conform, in general, to the prices which prevailed during March 1942 and were frozen by the General Maximum Price Regulation. Some relatively minor changes are discussed below, have, however, been effected in such prices. The level of prices for these commodities which prevailed during March 1942 has, in the light of experience of both producers and consumers, been found to be generally fair and equitable. Production since that date has expanded very substantially. Although unit costs of production are reported to have increased, reducing somewhat the unit profits below the level of March 1942, the larger volume of output has permitted producers to show satisfactory total profits. On the other hand, it would appear from reports concerning their earnings since March 1942 that producers have not subjected consumers to any hardship.

The dollar-and-cents maximum prices are set forth for those commodities in each element group which represent the major portion of sales and for which uniform prices can readily be established on the basis of past industry practice.

The maximum prices for the remaining items are the highest prices at which the seller sold or offered for sale such materials during January, February or March 1942 to a purchaser of the same class. In substance, the same basis of price control as that provided by the General Maximum Price Regulation, except that the "freeze period" is extended to the first quarter of 1942 rather than limited to the month of March. For some of these commodities so covered have been made infrequent price changes. Hence, a longer base period will facilitate the determination of prices by certain sellers. Price differences for some of the commodities and metals have existed in the past due to differences in manufacturing methods and the freeze technique permits a continuation of these differentials which are based on trade practice. Provision is made to facilitate the determination of maximum prices for new commodities and those not sold during the freeze period.

Among the minor variations in dollar-and-cents maximum prices provided by this regulation is the price for ferrotungsten in quantities of 10,000 pounds and over. Heretofore, one producer's price schedule set a base price of \$1.90 per pound of contained tungsten for carload quantities, with a differential of \$0.05 per pound higher for quantities of less than a carload down to 10,000 pounds. The base price for that producer was \$1.90 for any quantity of 10,000 pounds or more. However, because of the relative scarcity of ferrotungsten, the War Production Board finds it necessary from time to time to allocate less than a carload lots so that the carload lot buyer might be required to pay a premium even though he were willing to purchase a full carload. For this reason, and also for the reason that many shipments of ferrotungsten

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are or can be made by truck, it is believed appropriate to establish the maximum base price on quantities of 10,000 pounds rather than on carload lots. This reduction has been agreed to by the producer involved.

Another variation in price from that prevailing during March 1942 is the price provided on sales of a special grade of tungsten metal powder by Cleveland Tungsten, Inc. of Cleveland, Ohio. The maximum price provided by this regulation is identical to that established by Order No. 77 under Section 14993(b) of the General Maximum Price Regulation. Similarly, The S. W. Shattuck Chemical Company of Chicago, Illinois is permitted to sell technical grade tungstic oxide at a price higher than prevailed in March 1942 by Order No. 5 under Section 149975(a)(4) of Supplementary Regulation No. 15 of the General Maximum Price Regulation. The reasons for these exceptions are set forth in the opinions accompanying those orders.

Still another variation in maximum prices from those which existed in March 1942, is that provided for Simanal. One of the principal constituents in its manufacture is aluminum and the sole producer of Simanal has reduced its price below the March 1942 level to reflect the recent reduction in aluminum ingot prices. The maximum prices for Simanal set out in the regulation, at the producer's request, conform with these current prices.

The prices for Calcium Metal have been revised recently. Until war threatened in Europe Calcium Metal had been produced only in France. Foreseeing an interruption in the flow of material from France, a ferro-alloy producer began experiments in this country with the result that this domestically produced product entered the commercial market in the summer of 1939. Prices, established to compete with the imported product, had no relation to experience in the production of this material. When importation ceased, the War Production Board found it necessary to place Calcium Metal under strict allocation. Production increased to a point which permitted the restrictions to be relaxed and recently to be removed entirely. The sole producer has submitted a revised schedule of prices rationalized with present production. While this schedule increases the price from \$1.75 to \$1.80 per pound in one quantity bracket, an even greater rate of decrease is afforded all other quantities. The removal of allocation gives the buyer the option of purchasing quantities at more favorable prices. A substantial allowance for freight charges, not previously in effect, is also included in the revised prices.

Finally, the price of technical grade molybdic oxide sold and produced in small amounts by one minor producer, which was frozen at the March 1942 level under the provisions of the General Maximum Price Regulation, is slightly below the maximum price so established for the major producers. This regulation raises this producer's maximum price to that generally prevailing and thereby removes a possible inequity occasioned by the issuance of the General Maximum Price Regulation.

## C. Other Provisions

Sales for laboratory and experimental purposes are exempted from price control by this regulation because such sales are of little significance either in volume or in their impact on the price structure of manufactured commodities for which the commodities covered by this regu-

## Chapter XI—Office of Price Administration

## PART 1499—COMMODITIES AND SERVICES

## GENERAL MAXIMUM PRICE REGULATION

## FINDINGS OF THE PRICE ADMINISTRATOR

## Maximum Prices

- Sec.
- 1499.1 Prohibition against dealing in commodities or services above maximum prices.
- 1499.2 Maximum prices for commodities and services, general provisions.
- 1499.3 Maximum prices for commodities which cannot be priced under § 1499.2.
- 1499.4 Supplemental regulations.
- 1499.5 Transfers of business or stock in trade.
- 1499.6 Sales for export.
- 1499.7 Federal and State taxes.
- 1499.8 Less than maximum prices.

## Commodities and Services Excepted From This Regulation

- 1499.9 Commodities excepted from this regulation.
- 1499.10 Services excepted from this regulation.

## Records

- 1499.11 Base-period records.
- 1499.12 Current records.
- 1499.13 Maximum prices of cost-of-living commodities: statement, marking or posting.
- 1499.14 Sales slips and receipts.

## Registration and Enforcement

- 1499.15 Registration.
- 1499.16 Licensing.
- 1499.17 Penalties.

## Procedure for Adjustment or Amendment

- 1499.18 Applications for adjustment by retail sellers.
- 1499.19 Petitions for amendment.

## Definitions and Explanations

- 1499.20 Definitions and explanations.

## Other Price Regulations, Applicability, Effective Date

- 1499.21 Effect of other price regulations.
- 1499.22 Applicability.
- 1499.23 Effective date.
- 1499.24 Appendix A. Report of maximum price determined under § 1499.3 (a).
- 1499.25 Appendix B. Commodities designated by the Price Administrator as cost-of-living commodities.

## Findings of the Price Administrator

In the judgment of the Price Administrator the prices of commodities and services generally have risen and are threatening further to rise to an extent and in a manner inconsistent with the purposes of the Emergency Price Control Act of 1942.

In the judgment of the Price Administrator the maximum prices established by this General Maximum Price Regulation, which apply with certain exceptions to all commodities and services not otherwise subject to regulation, are generally fair and equitable and are necessary to check inflation and to effectuate the purposes of the Act.

So far as practicable the Price Administrator gave due consideration to prices prevailing between October 1 and 15, 1941, and to relevant factors of gen-

eral applicability. So far as practicable the Price Administrator consulted with representatives of trade and industry.

A statement of the considerations involved in the issuance of this General Maximum Price Regulation is issued simultaneously herewith.

Therefore, under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, this General Maximum Price Regulation is hereby issued.

## Maximum Prices

NOTE: The meaning of certain provisions and terms of this General Maximum Price Regulation is further explained and defined in § 1499.20. The explanations and definitions are set forth in alphabetical order. The terms explained and defined are underlined the first time they appear in the text.

§ 1499.1 Prohibition against dealing in commodities or services above maximum prices. On and after the effective date of this General Maximum Price Regulation, regardless of any contract or other obligation:

(a) No person shall sell or deliver any commodity, and no person shall sell or supply any service, at a price higher than the maximum price permitted by this General Maximum Price Regulation; and

(b) No person in the course of trade or business shall buy or receive any commodity or service at a price higher than the maximum price permitted by this General Maximum Price Regulation.

§ 1499.2 Maximum prices for commodities and services: General provisions. Except as otherwise provided in this General Maximum Price Regulation, the seller's maximum price for any commodity or service shall be:

(a) In those cases in which the seller dealt in the same or similar commodities or services during March 1942:

The highest price charged by the seller during such month—

(1) For the same commodity or service; or

(2) If no charge was made for the same commodity or service, for the similar commodity or service, most nearly like it; or

(b) In those cases in which the seller did not deal in the same or similar commodities or services during March 1942:

The highest price charged during such month by the most closely competitive seller of the same class—

(1) For the same commodity or service; or

(2) If no charge was made for the same commodity or service, for the similar commodity or service most nearly like it.

## "Highest Price Charged During March 1942"

For the purposes of this General Maximum Price Regulation, the highest price charged by a seller "during March 1942" shall be:

Filed with the Division of the Federal Register.

(a) The highest price which the seller charged for a commodity delivered or service supplied by him during March 1942; or

(b) If the seller made no such delivery or supplied no such service during March 1942 his highest offering price for delivery or supply during that month.

No seller shall change his customary allowances, discounts or other price differentials unless such change results in a lower price. The "highest price charged" shall be a price charged during March 1942 to a purchaser of the same class. But if during March 1942 a seller (1) had an established practice of making allowances, discounts or price differentials to different classes of purchasers, and (2) raised his general level of prices, but thereafter during March 1942 made no delivery to any purchaser of a particular class he shall, for that particular class of purchasers calculate the highest price charged by taking the highest price charged during March 1942 to a purchaser of another class and then adjusting such price to reflect his established allowances, discounts and price differentials. No seller shall require any purchaser, and no purchaser shall be permitted, to pay a larger proportion of transportation costs incurred in the delivery or supply of any commodity or service, than the seller required purchasers of the same class to pay during March 1942 on deliveries or supplies of the same or similar types of commodities or services.

## "Similar Commodities or Services"

One commodity shall be deemed "similar" to another commodity, if the first has the same use as the second, affords the purchaser fairly equivalent serviceability, and belongs to a type which would ordinarily be sold in the same price line. In determining the similarity of such commodities, differences merely in style or design which do not substantially affect use, or serviceability, or the price line in which such commodities would ordinarily have been sold, shall not be taken into account. One service shall be deemed "similar" to another service if the first has the same use and purpose as the second and belongs to a type which would ordinarily be sold for the same or substantially the same price.

§ 1499.3 Maximum prices for commodities which cannot be priced under § 1499.2. The seller's maximum price for a commodity which cannot be priced under § 1499.2 of this General Maximum Price Regulation shall be a maximum price in line with the level of maximum prices established by this General Maximum Price Regulation. Such price shall be determined by the seller in accordance with the following procedures:

(a) Sales of wholesale or retail. In the case of a sale of wholesale or retail, the seller (1) shall select from the same general classification and price range as the commodity being priced under this section, the comparable commodity for which a maximum price is established under § 1499.2 of this General Maximum



Price Regulation and of which the seller delivered the largest number of units during March 1942: (2) shall divide his maximum price for that commodity by his replacement cost of that commodity; and (3) shall multiply the percentage so obtained by the cost to him of the commodity being priced under this paragraph. The resulting figure shall be the maximum price of the commodity being priced. Within ten days after determining such maximum price under this paragraph the seller shall report such price to the appropriate field office of Price Administration upon a form, duly filled out and signed under oath or affirmation, copied from the form contained in § 1499.24, Appendix A, of this General Maximum Price Regulation. The price so reported shall be subject to adjustment at any time by the Office of Price Administration.

(b) *Sales other than at wholesale or retail.* In the case of a sale other than at wholesale or retail, the maximum price shall be a price determined by the seller after specific authorization from the Office of Price Administration. A seller who seeks an authorization to determine a maximum price under the provisions of this paragraph shall file with the Office of Price Administration in Washington, D. C., an application setting forth (1) a description in detail of the commodity for which a maximum price is sought; and (2) a statement of the facts which differentiate such commodity from other commodities delivered during March 1942 by such seller and by other competitive sellers of the same class. If such authorization is given, it will be accompanied by instructions as to the method for determining the maximum price. Within ten days after such price has been determined, the seller shall report the price to the Office of Price Administration in Washington, D. C., upon a form, duly filled out and signed under oath or affirmation, which will be furnished him. The price so reported shall be subject to adjustment at any time by the Office of Price Administration.

§ 1499.4 *Supplemental regulations.* If the maximum prices established for any commodity under the provisions of this General Maximum Price Regulation fail equitably to distribute returns from the sale at retail of such commodity among producers, manufacturers, wholesalers and retailers, the Price Administrator will by supplementary regulation establish such maximum prices for different classes of sellers, or fix such base periods for the determination of their maximum prices, as will insure that each such class of sellers shall receive a fair share of such return.

§ 1499.5 *Transfers of business or stock in trade.* If the business, assets or stock in trade of any business are sold or otherwise transferred after April 30, 1942, and the transferee carries on the business, or continues to deal in the same type of commodities or services, in an establishment separate from any other establishment previously owned or operated by him, the maximum prices of the trans-

fer shall be the same as those to which his transferee would have been subject if no transfer had taken place, and his obligation to keep records sufficient to verify such prices shall be the same. The transferor shall either preserve and make available, or turn over to the transferee, all records of transactions prior to the transfer which are necessary to enable the transferee to comply with the record provisions of this General Maximum Price Regulation.

§ 1499.6 *Sales for export.* The maximum price at which a person may export any commodity shall be determined in accordance with the provisions of the Maximum Export Price Regulation issued by the Office of Price Administration on April 25, 1942.

§ 1499.7 *Federal and State taxes.* Any tax upon the sale of a commodity or service, and any compensating use tax upon a commodity, levied by any statute of the United States or statute or ordinance of any state or subdivision thereof, shall be treated as follows in determining the seller's maximum price for such commodity or service and in preparing the records of such seller with respect thereto:

(a) *As to a tax in effect during March 1942.* (1) If the seller customarily stated and collected such tax separately from the purchase price during March 1942, the seller shall not include the tax in determining the maximum price under this General Maximum Price Regulation, and in such case may collect the tax in addition to the maximum price.

(2) If the seller did not customarily state and collect such tax separately from the purchase price during March 1942, the seller shall include the tax in determining the maximum price under this General Maximum Price Regulation, and in such case may not collect the tax in addition to the maximum price.

(b) *As to a tax which becomes effective after March 31, 1942.* If the statute or ordinance levying such tax requires or permits the seller to state and collect the tax separately from the price paid by the purchaser, and the seller does separately state it, the seller may collect the tax in addition to the maximum price.

§ 1499.8 *Less than maximum prices.* Lower prices than those established by this General Maximum Price Regulation may be charged, demanded, paid or offered.

*Commodities and Services Excepted From This General Maximum Price Regulation*

§ 1499.9 *Commodities excepted from this General Maximum Price Regulation.*

(a) This General Maximum Price Regulation shall not apply to sales or deliveries of the following commodities:

(1) Any raw and unprocessed agricultural commodity or greenhouse commodity while it remains in substantially its original state, except that bananas shall be governed by this General Maximum Price Regulation.

(2) Eggs and poultry.

(3) All milk products, including butter, cheese, condensed and evaporated milk, except that fluid milk sold at retail is an exception, and ice cream shall be governed by this General Maximum Price Regulation.

(4) Flour, except that packaged cake mixes and other packaged flour mixes shall be governed by this General Maximum Price Regulation.

(5) Mutton and lamb.

(6) Fresh fish and seafood, and game.

(7) Dried peaches, dry edible beans, leaf tobacco (whether dried or green), nuts (but not peanuts), linseed oil, linseed cake and linseed meal, mixed feed for animals, and manure.

(8) Living animals, whether wild or domestic.

(9) Books, magazines, motion pictures, periodicals, newspapers, and materials furnished for publication by any press association or feature service.

(10) Domestic ores and ore concentrates.

(11) Stumpage, logs, and pulpwood.

(12) Stamps and coins; precious stones; antiques and knotted oriental rugs; paintings, etchings, sculptures and other objects of art.

(13) Used automobiles.

(14) Wood and gum for naval stores, and naval stores prior to sale to industrial consumers, or prior to the first sale to a distributor. *Provided, however,* That this General Maximum Price Regulation shall apply to all sales of such commodities on any exchange.

(15) Securities.

(16) Such other commodities as may be specified by supplementary regulations issued under this section.

(b) This General Maximum Price Regulation shall not apply to the following sales or deliveries:

(1) By a farmer, of commodities grown and processed on his farm, if the total of such sales or deliveries does not exceed \$75.00 in any one calendar month.

(2) By any merchant, farmer, artisan, or person who renders professional services, of his used supplies, or business, farm, or professional equipment, not acquired or produced by him for the purpose of sale.

(3) By an owner, of his used personal or household effects or other personal property used by him.

(4) At a bona fide auction of used household or personal effects.

(5) By hotels, restaurants, soda fountains, bars, cafes, or other similar establishments, of food or beverages prepared and sold for consumption on the premises.

(6) By a breeder, trapper, or hunter, of pelts, furs, or other parts of wild animals raised by him, or trapped, shot, or killed by him, if the total of such sales or deliveries does not exceed \$75.00 in any one calendar month.

(7) Of commodities sold without private profit in the course of any sale, fair, or bazaar conducted for a period of not more than 15 days by any religious, charitable, or philanthropic organization.

(8) To the United States or any agency thereof of such commodities or in such transactions as may be specified by supplementary regulations issued under this section.

(9) Such other sales and deliveries as may be specified by supplementary regulations issued under this section.

**§ 1499.10 Services excepted from this General Maximum Price Regulation.** The provisions of this General Maximum Price Regulation shall not apply to the following services:

(a) Services of an employee to his employer.

(b) Personal services not rendered in connection with a commodity.

(c) Professional services.

(d) Motion pictures, theatres and other entertainments.

(e) Services of a common carrier or public utility.

(f) Advertising services, including radio broadcasting.

(g) Insurance and underwriting services.

(h) Press association and feature services.

(i) Services relating solely to real property.

(j) Such other services as may be specified by supplementary regulations issued under this section.

#### Records

**§ 1499.11 Base-period records.** Every person selling commodities or services for which, upon sale by that person, maximum prices are established by this General Maximum Price Regulation, shall:

(a) Preserve for examination by the Office of Price Administration all his existing records relating to the prices which he charged for such of those commodities or services as he delivered or supplied during March 1942, and his offering prices for delivery or supply of such commodities or services during such month; and

(b) Prepare, on or before July 1, 1942, on the basis of all available information and records, and thereafter keep for examination by any person during ordinary business hours, a statement showing:

(1) The highest prices which he charged for such of those commodities or services as he delivered or supplied during March 1942 and his offering prices for delivery or supply of such commodities or services during such month, together with an appropriate description or identification of each such commodity or service; and

(2) All his customary allowances, discounts, and other price differentials.

Any person, other than a person selling at retail, who claims that substantial injury would result to him from making such statement available to any other person, may file it with the appropriate field office of the Office of Price Administration. The information contained in such statement will not be published or disclosed unless it is determined that the

withholding of such information is contrary to the purposes of this General Maximum Price Regulation.

**§ 1499.12 Current records.** Every person selling commodities or services for which, upon sale by that person, maximum prices are established by this General Maximum Price Regulation shall keep, and make available for examination by the Office of Price Administration, records of the same kind as he has customarily kept, relating to the prices which he charged for such of those commodities or services as he sold after the effective date of this General Maximum Price Regulation; and, in addition, records showing, as precisely as possible, the basis upon which he determined maximum prices for those commodities or services.

**§ 1499.13 Maximum prices of cost-of-living commodities: statement, marking or posting.** For the purposes of this section, a cost-of-living commodity is any commodity designated as such by the Price Administrator. A list of the classes of commodities so designated appears in § 1499.25, Appendix B, of this General Maximum Price Regulation.

(a) On and after May 18, 1942, every person offering to sell a cost-of-living commodity at retail shall mark the maximum price of such commodity in a manner plainly visible to, and understandable by, the purchasing public. The maximum price may be marked on the commodity itself or on the shelf, bin, rack, or other holder or container upon or in which the commodity is kept, or it may be posted at the place in the business establishment where the commodity is offered for sale. The maximum price shall be stated as follows: "Ceiling Price \$....." or "Our Ceiling \$.....". Any person choosing to post by price-lines the maximum prices of commodities in the classifications marked by asterisks in § 1500.25, Appendix B, shall post the maximum price by price-line at the place in the business establishment where the commodities in such price-line are offered for sale, and, in addition, shall mark the selling price of each such commodity on the commodity itself.

(b) On or before June 1, 1942, every person offering to sell cost-of-living commodities at retail shall file with the appropriate War Price and Rationing Board of the Office of Price Administration a statement showing his maximum price for each such commodity, together with an appropriate description or identification of it. Such statement shall be kept up to date by such person by filing on the first day of every succeeding month a statement of his maximum price for any cost-of-living commodity newly offered for sale during the previous month, together with an appropriate description or identification of the commodity.

**§ 1499.14 Sales slips and receipts.** Any seller who has customarily given a purchaser a sales slip, receipt, or similar evidence of purchase shall continue to do so. Upon request from a purchaser any seller, regardless of previous custom,

shall give the purchaser a receipt showing the date, the name and address of the seller, the name of each commodity or service sold, and the price received for it.

#### Registration and Enforcement

**§ 1499.15 Registration.** Every person selling at wholesale, and every person who owns, or hereafter becomes the owner of, any business operating an establishment selling at retail any commodity or service for which a maximum price is established by this General Maximum Price Regulation on or prior to April 28, 1942, by the Office of Price Administration shall register each such establishment with the Office of Price Administration at such time and in such manner as the Administrator may hereafter by regulation prescribe, on forms which will be made available by the Office of Price Administration.

**§ 1499.16 Licensing.** Every person selling at wholesale or retail any commodity or service for which a maximum price is established by this General Maximum Price Regulation or by any other price regulation issued on or prior to April 28, 1942, by the Office of Price Administration is by this General Maximum Price Regulation granted a license as a condition of selling any such commodity or service. Such license shall be effective on the effective date of this General Maximum Price Regulation or when any such person becomes subject to the maximum price provisions of this or any other price regulation, and shall, unless suspended in accordance with the provisions of the Emergency Price Control Act of 1942, remain in effect as long as such regulation, or any applicable part, amendment, or supplement remains in effect.

**§ 1499.17 Penalties.** Persons violating any provision of this General Maximum Price Regulation are subject to the criminal penalties, civil enforcement actions, and suits for treble damages provided for by the Emergency Price Control Act of 1942, and proceedings for the suspension of licenses.

#### Procedure for Adjustment or Amendment

**§ 1499.18 Applications for adjustment by retail sellers.** (a) Any seller at retail who finds that the maximum price of a commodity or service established for him under the provisions of § 1499.2 or 1499.3 of this General Maximum Price Regulation is abnormally low in relation to the maximum prices of the same or similar commodities or services established for other sellers at retail, and that this abnormality subjects him to substantial hardship, may file an application for adjustment of that maximum price in accordance with procedural regulations which will be issued by the Office of Price Administration.

(b) Any seller at retail who finds that his maximum price for any commodity, and the maximum prices of other retail sellers for the same commodity are abnormally low in relation to the level of maximum prices established by this General Maximum Price Regulation for

[fol. 2564a]

IN UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

Before: Magruder, Merrill, Circuit Judges and Solomon,  
District Judge.

MINUTE ENTRY OF ARGUMENT AND SUBMISSION—  
March 10, 1961

This cause coming on regularly for hearing and submission Mr. Joseph L. Alioto argued for the appellants and Mr. Richard J. Archer and Edward R. Neahr argued for the appellees and thereupon, the court ordered this cause submitted for consideration and decision.

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[fol. 2565]

IN UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

Before: Merrill, Magruder, Circuit Judges, and Solomon,  
District Judge.

MINUTE ENTRY OF ORDER DIRECTING FILING OF OPINION AND  
FILING AND RECORDING OF JUDGMENT—March 22, 1961

Ordered that the typewritten opinion this day rendered by this Court in above cause be forthwith filed by the clerk and that a judgment be filed and recorded in the minutes of this court in accordance with the opinion rendered.

IN UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

No. 16,149

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CONTINENTAL ORE COMPANY, a Partnership; and HENRY J. LEIR, ERNA D. LEIR, LINA SCHLOSS, as Individuals and as Partners under the trade name and style of Continental Ore Company, Appellants,

vs.

UNION CARBIDE AND CARBON CORPORATION; UNITED STATES VANADIUM CORPORATION; ELECTRO METALLURGICAL COMPANY; ELECTRO METALLURGICAL SALES CORPORATION; ELECTRO METALLURGICAL COMPANY OF CANADA, LIMITED; VANADIUM CORPORATION OF AMERICA, Appellees.

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Appeal from the United States District Court for the Northern District of California, Southern Division.

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OPINION—March 22, 1961

Before: Merrill and Magruder, Circuit Judges, and Solomon, District Judge.

Magruder, Circuit Judge.

Plaintiffs filed in the court below a treble damage anti-trust complaint against defendants. Plaintiffs, a partnership and the partners in it suing individually, are the successors in interest to a family corporation known as Continental Ore Corporation. Both the plaintiff partnership, Continental Ore Company, and the previous corporation will be referred to as Continental.

The guiding light in Continental has been and still is the plaintiff Henry J. Leir. Leir was born in Germany and entered the ore and metal business there. His enterprises [fol. 2567] in Germany involved for the most part the purchase of raw materials for metal producers and the sale



of their finished products. Upon Hitler's rise to power Leir moved to Luxembourg, where he formed a company known as Société Anonyme des Minerais. This corporation subsequently entered into a joint venture with the Société d'Electro-Chimie de Brignoud, a French company otherwise known as Fredet-Kuhlmann. Brignoud undertook to install equipment for the production of ferro-vanadium and other alloys by a process known as the alumino-thermic method; Minerais supplied the raw materials, and the profits were split evenly. In 1938 Leir moved again, this time to the United States. He organized the Continental Ore Corporation in 1939 under the laws of the State of New York.

The defendants named in the complaint are Union Carbide and Carbon Corporation, a New York corporation, United States Vanadium Corporation, a Delaware corporation, Electro Metallurgical Company, a West Virginia corporation, Electro Metallurgical Sales Corporation, a New York corporation, Electro Metallurgical Company of Canada, Ltd., a Canadian corporation, and Vanadium Corporation of America, a Delaware corporation. Several other persons, whose names were unknown to the plaintiffs, were listed as Doe defendants.

The complaint states that, by means of a combination and conspiracy in violation of §§ 1 and 2 of the Sherman Act, 15 U.S.C. §§ 1 and 2, defendants eliminated the plaintiffs and their predecessor in interest, the Continental Ore Corporation, hereinafter included in the term plaintiffs, from the business of producing, selling and distributing vanadium oxide and ferro-vanadium. Plaintiffs claim that they made several forays into the vanadium industry, sometimes approaching the brink of success, other times not getting quite so far. Their inability to reach the desired goal in any of their various vanadium undertakings is the gist of their complaint. They ascribe their failures to defendants' alleged unlawful course of conduct.

Vanadium is a rare metallic element found for the most part in carnotite and roscolite ores. These vanadium-bearing ores are taken from the mines to the mills where they are "crushed," "roasted" and "leached" to form a substance called red cake. The red cake is then fused into a black oxide, which is called vanadium oxide, vanadic acid,

[fol. 2568] vanadium pentoxide, or  $V_2O_5$ . This oxide is then converted into ferro-vanadium through the application of great heat either by means of an electric furnace or by the aluminothermic process. The ferro-vanadium thus produced is used by steel makers in the steel bath to add toughness and tensile strength to the steel.

According to the complaint, the defendants frustrated the plaintiffs' sallies into the vanadium field in five particulars:

(1) In 1938 Leir negotiated a contract between Apex Smelting Company of Chicago (hereinafter "Apex") and Société d'Electro-Chimie de Brignoud, the French corporation. Subsequently the plaintiffs were assigned one half of Brignoud's interest under the contract. The agreement provided that Apex was to build and operate a ferro-vanadium plant, using Brignoud's aluminothermic method of conversion. Brignoud was to contribute the secrets of this process as its part of the project. Since the profits were to be divided equally between the two signatories to the agreement, the plaintiffs, as a result of the assignment to them, became entitled to one quarter of the profits realized from the arrangement. Plaintiffs were also appointed exclusive sales agents throughout most of the United States for the ferro-vanadium to be manufactured by Apex.

Production under this agreement was not actually begun by Apex until April, 1940. The agreement was terminated by Apex in the spring of 1942. According to the complaint, Apex ceased operations in ferro-vanadium and canceled the aforesaid agreement because a sufficient supply of oxide could not be obtained, this being attributed to defendants' antitrust violations. More specifically, in pursuance of their illegal combination and conspiracy, defendants were said to have refused to sell enough oxide to Apex and also to have prevented Apex from acquiring the necessary quantities of raw materials from other suppliers.

(2) In 1942, after the termination of the unfortunate Apex joint venture, the plaintiffs transformed rented premises on Long Island, New York, and there packaged a vanadium compound made up of vanadium oxide and small amounts of other materials. This compound, which was

sold under the trade name Van-Ex, was designed for direct use in the steel bath where it could be converted into ferro-[fol. 2569] vanadium and mixed into the steel in one operation, thereby obviating the need to produce ferro-vanadium by a separate procedure. In 1944 the sale of Van-Ex was discontinued because, according to plaintiffs' allegations, defendants' antitrust violations precluded the acquisition of sufficient oxide and ore. It is claimed that defendants refused to sell to the plaintiffs and prevented their securing raw materials elsewhere.

(3) During 1942 the plaintiffs sold substantial quantities of ferro-vanadium, apparently produced by Apex, and of Van-Ex to a Canadian company, Atlas Steels, Ltd. These sales ceased during 1943 because, as alleged, defendants agreed with Electro Metallurgical Company of Canada, Ltd., a wholly owned subsidiary of defendant Union Carbide, and the wartime agent of the Canadian Government for the purchase and allocation of vanadium products to Canadian steel firms, to eliminate Continental from the Canadian market. Pursuant to the agreement Electro Metallurgical Company of Canada refused, while exercising its powers as an agent of the Canadian Government, to purchase for and allocate to Canadian steel makers vanadium products made by the plaintiffs.

(4) During 1943, by threats of reprisals defendants allegedly forced the termination of contractual negotiations between Climax Molybdenum Corporation and the plaintiffs.

(5) In 1944 plaintiffs and Imperial Paper & Color Corporation entered into a contract much like the Apex arrangement above described, but providing in addition for the milling of oxide from vanadium ore. Imperial abandoned this contract before the production stage was ever reached because, according to the allegations, neither Imperial nor Continental was able to secure either ore or oxide with which to work as a consequence of defendants' refusal to sell supplies to them and of their actions which precluded the purchase of the same from other persons.

These five particulars by which defendants' alleged monopoly was purportedly furthered at Continental's expense

are given as the reason for plaintiffs' assertion that after 1944 they could no longer operate profitably in the vanadium business. The complaint does not recite any particular activities by the defendants against the plaintiffs after 1944. In summary, plaintiffs complain that defendants [fol. 2570] conspired and combined to monopolize the production and sale of vanadium oxide and ferro-vanadium; that in pursuance of this monopolistic scheme defendants refused to supply vanadium oxide to the plaintiffs to carry on the business of producing ferro-vanadium; that defendants similarly refused to sell to plaintiffs sufficient vanadium oxide to continue the business of processing, packaging and selling Van-Ex; and that, in the course of their unlawful monopolistic conspiracy, defendants coerced the defection of one of plaintiffs' Canadian customers for ferro-vanadium and Van-Ex, namely, Atlas Steels, Ltd.; and moreover that defendants defeated the efforts by plaintiffs to enter into a successful arrangement with Climax Molybdenum Company for the production of ferro-vanadium. The complaint states that, owing to all this,

"Plaintiffs have lost business; the value of their trademarks has been diminished; markets and customers which they have obtained in open competition with defendants have been taken away from them; their investments have been lost; the good will attaching to the business of Continental has been impaired—all to the damage of plaintiffs in the sum of Five Hundred Twenty-Eight Thousand Dollars (\$528,000)."

This amount the plaintiffs estimate they would have made from their various vanadium ventures had not the defendants committed the above listed acts as part of their unlawful conspiracy.

At the conclusion of the plaintiffs' case, and also when all the evidence was in, defendants moved for a directed verdict on the ground that there was insufficient evidence to establish the plaintiffs' claim to relief. The court took the motion under advisement but submitted the case to the jury, which reported a verdict for the defendants, with which verdict the trial judge noted his concurrence. Pursuant to this verdict the trial judge, on June 25, 1958, en-

tered his judgment stating that "the plaintiffs take nothing by their complaint and that the same be dismissed and that the defendants have judgment on the verdict against the plaintiffs". It is this judgment which is now before us on appeal by the unsuccessful plaintiffs.

An appellate court reviews judgments, not the reasons which may be given in their support. It is only common [fol. 2571] sense that if, on the record before us, we determine that the judgment is correct, it should be affirmed, regardless of the correctness of the reasons which may be given to support it. Suppose that the trial judge had decided to direct a verdict for the defendants. He would, in that event, have entered a judgment to the same effect as the one under review. If we conclude that the trial judge should have granted defendants' motion for a directed verdict, we should affirm the judgment as rendered, whatever errors appellants may convince us were made by the judge during the trial.

This proposition is well settled on the authorities. See *United States v. American Railway Express Co.*, 265 U.S. 425, 435 (1924); *Stroud v. Benson*, 254 F.2d 448, 451 (C.A. 4th, 1958); *Lady Nelson, Ltd. v. Creole Petroleum Corp.*, C.A. 2d, decided January 19, 1961. We think that the Fifth Circuit was quite wrong in *Thurber Corp. v. Fairchild Motor Corp.*, 269 F.2d 841 (1959), in holding that the foregoing rule was required to be modified or rendered inapplicable by the reasoning of the Supreme Court in *Cone v. West Virginia Pulp & Paper Co.*, 330 U.S. 212 (1947). This last-named case dealt with quite a different situation, namely, the power of an appellate court upon reversal of the district court where the losing party below had not moved for a judgment n.o.v. or, in the alternative, for a new trial, as provided in Rule 50(b) F.R.C.P. In the present case we propose to affirm the judgment of the district court. As late as 1957 the Supreme Court said, in *Jaffke v. Dunham*, 352 U.S. 280, 281 (1957), that, "A successful party in the District Court may sustain its judgment on any ground that finds support in the record," without any suggestion that this statement had to be modified to meet the reasoning of *Cone v. West Virginia Pulp & Paper Co.*, *supra*.

In fact, in the situation presented we do not see how we could do otherwise than affirm the judgment under review if we would obey the commands of 28 U.S.C. § 2111 and Rule 61 F.R.C.P. If we conclude that the trial judge should have granted defendants' motion for a directed verdict, it is not apparent how any alleged error at the trial could be deemed to "affect the substantial rights of the parties" within the meaning of both 28 U.S.C. § 2111 and Rule 61. In reaching our decision we shall look not only at all the evidence admitted by the trial judge, but also at all the evidence offered by plaintiffs but excluded below.

In a treble damage action under 15 U.S.C. § 15, it is clear that the plaintiff, in order to make out a claim on which recovery might be had, has the burden of proof to establish the following elements of his case: (1) That the defendant has violated the antitrust laws; (2) that plaintiff has suffered an injury to his business or property susceptible of being described with some degree of certainty in terms of money damages; and (3) that a causal connection exists between the defendant's wrongdoing and the plaintiff's loss. See, generally, Comment, 61 Yale L. J. 1010, 1011-28 (1952). Although in the instant case the defendants challenged the sufficiency of the evidence as to the three elements of the plaintiffs' case, we shall first direct our analysis to the third element, the sufficiency of the evidence as to causation, because defendants' strongest argument seems to us to apply here. Of course, a failure by the plaintiffs to prove any one of the three elements of their case would require the trial judge to direct a verdict for the defendants.

For present purposes we shall assume that the evidence was adequate to support a jury finding that the defendants committed the violations of the Sherman Act claimed, and that the defendants did the acts mentioned as part of a plan to monopolize the marketing of ferro-vanadium. Our problem is to determine whether or not the evidence could have justified jury findings that defendants' alleged illegal acts were in fact the cause of the plaintiffs' failure in various adventures into the business of producing and selling ferro-vanadium and Van-Ex. We have come to the conclusion that the evidence offered by the plaintiffs was insufficient to justify a jury verdict that this necessary causal relation

existed, and therefore that the trial judge should have directed a verdict for the defendants.

As the First Circuit recognized in *Momand v. Universal Film Exchanges, Inc.*, 172 F.2d 37, 42-43 (1948):

"The degree of certainty required of a plaintiff in proving causation of damage is necessarily elastic. It varies with the nature of the case. Particularly in an anti-trust suit, covering as it must many imponderables, rigid standards of precise proof would make a plaintiff's task practically hopeless.

...  
[fol. 2573] "To sum up: It is well appreciated that a plaintiff has a difficult task in anti-trust suit and that adherence to strict requirements of proof as to exact quantity of damage may deprive him of the substance of his rights. The law has gone far to ease that burden by permitting proof of losses which border on the speculative, in order to implement the policy of the anti-trust laws. But a fair degree of certainty is still essential to show the causative relation of defendants' misconduct and plaintiff's injury."

No doubt, a plaintiff's difficulties of proof may be somewhat mitigated by a rule much akin to the doctrine of *res ipsa loquitur*: where the plaintiff proves a loss, and a violation by defendant of the antitrust laws of such a nature as to be likely to cause that type of loss, there are cases which say that the jury, as the trier of the facts, must be permitted to draw from this circumstantial evidence the inference that the necessary causal relation exists. *Bigelow v. RKO Radio Pictures, Inc.*, 327 U.S. 251 (1946). See also *Eastman Kodak Company of New York v. Southern Photo Materials Co.*, 273 U.S. 359 (1927); *Story Parchment Co. v. Paterson Parchment Paper Co.*, 282 U.S. 555 (1931). See *Martin v. Herzog*, 228 N.Y. 164, 170-71, 126 N.E. 814, 816 (1920).

But we are not sure that *Bigelow v. RKO Pictures, Inc.*, supra, is applicable in the instant case. Appellants have complained of the loss of a few named, specific, business arrangements rather than a general loss inflicted by the defection of countless, individual customers. Direct evi-



dence of causation was readily available to Continental, while in the case cited such direct evidence was practically impossible to come by. See, generally, Clark, "The Treble Damage Bonanza: New Doctrines of Damages in Private Antitrust Suits," 52 Mich. L. Rev. 363 (1954). Yet, even if the *Bigelow* decision could be enlisted to serve appellants' purposes, it was still incumbent upon them to show on the trial that their reiterated lack of supplies was the result of defendants' refusals to deal with them and of defendants' efforts to prevent them from obtaining raw materials elsewhere. See *Royster Drive-in Theatres, Inc. v. American Broadcasting-Paramount Theatres, Inc.*, 268 F.2d 246, 251 (C.A. 2d, 1959), cert. denied 361 U.S. 885 (1959); *Standard Oil Company of California v. Moore*, 251 F.2d 188, 198 [fol. 2574] (C.A. 9th, 1958); *Congress Bldg. Corp. v. Loew's, Inc.*, 246 F.2d 587, 596-98 (C.A. 7th, 1957); *Milwaukee Towne Corp. v. Loew's, Inc.*, 190 F.2d 561, 568 (C.A. 7th, 1951). This evidence is necessary in order to connect the asserted antitrust infractions with the alleged scarcity of supplies. Without such a connection, the *Bigelow* case does not come into play, for the requisite likelihood that defendants' actions caused plaintiffs' injuries is not sufficiently established to justify use of the *Bigelow v. RKO Pictures, Inc.*, supra, 327 U.S. 251, inference.

First, regarding the contract with Apex above referred to: Here, as elsewhere, the plaintiffs should have produced enough evidence to warrant a jury finding that defendants refused to sell to them and dried up other sources of raw materials.

The contract between Apex and Brignoud was executed on July 1, 1938, but it was not until the latter part of 1940 that Apex was actually ready to manufacture ferro-vanadium. Between the date of the execution of the contract and April, 1940, Apex was busy seeking technical assistance from Brignoud, a task made exceedingly difficult by the growing Nazi belligerence on the other side of the ocean. This assistance was needed to determine how much aluminum should be used in the alumino-thermic method of vanadium reduction; in other words, the amount of aluminum which, when used in the smelting process, would produce the best recovery of metallic vanadium from oxide. During this experimental period plaintiffs made their first



requests for the purchase of raw materials from the defendants.

In May, 1939, and again in July and October, 1939, the plaintiff Henry J. Leir, through the Continental Ore Corporation, sought to purchase from defendant Vanadium Corporation of America certain quantities of oxide. Although these various efforts were turned down by that defendant, it is clearly in evidence that during July and August, 1939, another defendant, Electro Metallurgical Sales Corporation, a wholly owned subsidiary of defendant Union Carbide, sold to the plaintiffs 16,000 pounds of oxide. In 1939 Apex was not ready to begin making ferro-vanadium and so did not call for any oxide from Continental. The oxide which plaintiffs acquired in 1939 was sold either on the export market or to non-associated buyers in the United States. It is clear that the alleged lack of oxide [fol. 2575] during 1939 could have no bearing on the ultimate unsatisfactory outcome of the Apex agreement. What Continental wanted in 1939 was oxide to sell abroad at export prices, not oxide to be delivered to Apex for its ferro-vanadium plant, which could not use it yet.

In 1940 the story is much the same. In March Apex did make one approach to Vanadium Corporation of America seeking to buy oxide. Vanadium replied that it had no material to offer Apex at that time. Even so, during the period between September and December, 1940, Apex having first begun in August of that year to produce ferro-vanadium, Continental sold 28,000 pounds of vanadium oxide to others than Apex, which it would certainly not have done had there been a shortage either at that time or to be anticipated in the near future. If such a shortage did exist, it is hard to understand why Apex turned down proffered arrangements with the Blanding mine or with Morrison, both of which could have furnished Apex a considerable quantity of oxide. We cannot by any stretch of the imagination come to the conclusion that the refusal of Vanadium Corporation of America to sell oxide to Apex in March, 1940, contributed to a shortage of supplies at its plant.

Nor was the situation much different during 1941. We note that during that year nobody on the plaintiffs' side made any offer to buy oxide from defendants. Rather,

plaintiffs wrote to defendants seeking from them offers for sale. The last of these letters was written in June, 1941, to defendant Electro Metallurgical Sales Corporation, which failed to answer. It is also in evidence that during 1941 Continental continued the practice of selling oxide indiscriminately.

Though no overtures were made to any defendant during 1942 concerning the possible purchase of oxide or ore, it is in evidence that an Apex supplier, Nisley & Wilson, sold 10,000 pounds of oxide to Vanadium Corporation of America in February of that year because Apex was unable to take that shipment owing to a fire in its ferro department.

It was not until June, 1942, that Apex canceled its joint venture arrangement with Brignoud allegedly because of the shortage of oxide resulting from plaintiffs' inability [fol. 2576] to buy supplies from defendants and from defendants' action in preventing Apex from obtaining raw materials from other producers. As noted previously, when rejections by defendants to deal with the plaintiffs are the crux of treble damage actions under the antitrust laws, it is clearly required that the plaintiffs must show that they offered to buy and that the defendants did not sell to them. Even assuming that the failure to make offers to sell in response to plaintiffs' inquiries amounted to a refusal to deal, the last request was made a year before the alleged lack of supplies is claimed to have caused Apex to end its relationship with the plaintiffs. We hold, under the cases cited pages 8-9,\* *supra*, that the failure of Apex or of Continental to try to buy oxide from the defendants during the final and most critical period in the life of the Apex contract made it impossible for the jury to find that defendants' refusals to deal caused Apex to terminate the arrangement with Brignoud. In regard to the Apex venture, the judgment below is affirmed.

We come now to the plaintiffs' efforts to market the Van-Ex compound. Some Van-Ex had been made by Apex before relations with Brignoud finally came to an end in July, 1942. But most of this product was manufactured by Continental in rented premises in Long Island City, New York. According to the allegations of the complaint, the

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\* Printed herein at side folios 2573 and 2574.

sales of Van-Ex were completely stopped in 1944 for the reason that, because of the defendants' wrongdoing, Continental was never able to secure sufficient supplies of raw materials to stay in business. The defendants contended that the manufacture of Van-Ex really stopped in 1943, when Continental sold its pebble mill.

The complaint itself is somewhat confusing as to why the Van-Ex business fell off. One paragraph states that the cause of this disaster was the inability of the plaintiffs to secure raw materials through defendants' wrongful acts. Another paragraph asserts that the plaintiffs were shouldered out of the vanadium field, and specifically out of Van-Ex, by defendants' interference with Continental's primary customer for Van-Ex, Atlas Steels, Ltd., of Canada. Defendants are accused of preventing Atlas from securing Van-Ex from Continental. It seems obvious that, if lack of supplies was really the cause of Continental's undoing with regard to Van-Ex, the loss of Atlas as a customer would [fol. 2577] become irrelevant, for the absence of customers cannot hurt a seller who has nothing to sell. On the other hand, if the defection of Atlas was the cause of Van-Ex's demise, the alleged lack of supplies could have had no relevance, for an abundance of goods is of no use to a seller who lacks customers.

As to the lack of supplies needed to produce Van-Ex, the plaintiffs once again have the burden of introducing sufficient evidence to warrant the inference that they were unable to obtain oxide from the defendants or from anybody else.

The Van-Ex venture must be viewed against the background of wartime regulations and procedures. Metals Reserve Company (hereinafter MRC) was formed by the United States Government in the early months of 1942 to insure that vanadium for the war effort would be readily available when needed. MRC named defendant United States Vanadium Corporation its agent to carry out the appointed task. MRC and United States Vanadium Corporation had three plants at their disposal for milling oxide from ore, one run by the latter at Durango, Colorado, one by Vanadium Corporation of America at Monticello, Utah, and, toward the end of 1942, the Nisley & Wilson mill at

Gateway, Colorado. These three plants processed ore furnished by United States Vanadium Corporation as agent for MRC, and the oxide produced was turned over to MRC for a fee or "toll" on each pound.

The oxide accumulated by MRC in this manner was then sold to private interests, provided the prospective buyer could receive an allocation from the War Production Board. There is no evidence that Continental had any trouble obtaining such allocations. By the end of 1943 MRC to all intents and purposes had stopped functioning. At that time the Manhattan Project, designed to make the first atomic bomb, began operations. Since uranium comes from the same ore as vanadium, control over vanadium ore was assumed by the Manhattan Project. So far, however, as can be inferred from the record, the manipulations by the Manhattan Project and by its agent, Union Mines Development Company, a wholly owned subsidiary of defendant Union Carbide, did not come into play until after the Van-Ex project had come to an unsuccessful close.

[fol. 2578] In March, 1943, Continental was granted an allocation for 20,000 pounds of oxide from the War Production Board. MRC supplied 10,000 pounds and the balance was purchased from the defendant Electro Metallurgical Sales Corporation. In making this purchase from Electro, Continental squabbled somewhat over the price but eventually the sale was made at the price offered by Continental.

Later in the same year Continental asked defendants Electro Metallurgical Sales Corporation and Vanadium Corporation of America for contracts under which it could buy from them a certain amount of oxide each month over a prolonged period, but the requests were turned down. Again, we must assume that the denial of these requests for contracts amounted to a refusal to deal with the plaintiffs.

None the less, appellants failed to show that defendants prevented them from buying raw materials from an independent supplier, namely, Nisley & Wilson. Late in 1942, at the beginning of that firm's toll agreement with MRC, some of its production was earmarked and sent to Continental through MRC. These shipments apparently stopped

early in 1943. In the spring of that year MRC entered into a contract with Continental under which the production of Nisley & Wilson, or a part of it, would be shipped to Continental from time to time. In June 17,000 pounds of oxide were ready, but Continental did not wish to buy for the reason that the oxide was in lumps and Continental needed material more finely ground. Continental had bought these lumps from Nisley & Wilson in the fall of 1942 but did not want them in the summer of 1943. This may have been because Continental had sold the pebble mill which it had begun to operate in Long Island City in 1942. Moreover, because in the summer of 1943 Nisley & Wilson could not have produced oxide in forms smaller than the lumps unacceptable by Continental, the latter canceled its contract with MRC.

In October, 1943, Nisley & Wilson foresaw the end of its toll agreement with MRC and installed a flaking machine. It could now produce oxide in flakes rather than in lumps. Continental was advised of the new acquisition and a sample of oxide in the new form was submitted. Continental [fol. 2579] replied that the flakes were just what the doctor ordered, but made no effort to secure Nisley & Wilson's product. Plaintiff's witness Martin Wolf testified that this was because Continental did not know that the toll agreement was about to expire and thought that it would not be able to get anything from MRC which, says Continental, was controlled by its agent United States Vanadium Corporation. Nisley & Wilson shut down in January, 1944. It had on hand a stockpile of about 300,000 pounds of oxide which it tried to sell to Continental in the spring of 1944. Again Continental refused to buy.

We think this failure to deal with Nisley & Wilson during the Van-Ex period precludes Continental from arguing that defendants prevented the acquisition of raw materials at that time. As to Apex, appellants failed to show their inability to get oxide from defendants. With regard to Van-Ex, they failed to show that it was impossible for them to obtain supplies from an independent producer.

As to the alternative allegation, that the loss of the Van-Ex business was caused by the defendants' interference

with Canadian buyers, principally Atlas Steels, Ltd., we cannot ignore the fact that Electro Metallurgical Company of Canada, Ltd., had been appointed by the Canadian Government to act as its agent in purchasing Van-Ex for Canadian steel makers. The Canadian Government established a regulation under which no vanadium oxide (including Van-Ex) could be imported into Canada by anybody other than its agent, and Electro Metallurgical Company of Canada, Ltd., refused to purchase Van-Ex from the plaintiffs. Thus, even if we assume that Electro Metallurgical Company of Canada, Ltd., acted for the purpose of entrenching the monopoly position of the defendants in the United States, it was acting as an arm of the Canadian Government, and we do not see how such efforts as appellants claim defendants took to persuade and influence the Canadian Government through its agent are within the purview of the Sherman Act. See *Eastern Railroad Presidents Conference v. Noerr Motor Freight, Inc.*, decided by the Supreme Court February 20, 1961.

We now refer briefly to the two remaining allegations of the complaint designed to show that the defendants' illegal acts caused a failure of the plaintiffs to compete successfully in the ferro-vanadium field.

[fol. 2580] During 1943, by threats of reprisals made by one M. D. Arrouet, defendants allegedly forced the termination of contractual negotiations between Climax Molybdenum Corporation and the plaintiffs. The trial judge excluded all evidence dealing with the alleged threats of reprisal; therefore we look to appellants' offer of proof to determine what the story was. Appellants offered to demonstrate that Mr. Arrouet was a highly placed representative of defendants Union Carbide group. It is admitted that he was not an officer of any of the defendants, but it is alleged that his threats of reprisals ought to bind Union Carbide and Electro Metallurgical Company. Appellants' offer of proof would show that Arrouet threatened that if Climax undertook the manufacture of ferro-vanadium for Continental, the defendants would enter the industry as a reprisal against Climax.

For present purposes we shall assume that Arrouet said what appellants say he said, and we shall also assume that

his statement is to be considered the statement of those defendants in the Union Carbide group. The difficulty with appellants' position in this regard is that the record contains no evidence of the nature of the alleged pending negotiations with Climax. There had been, in February, 1943, an earlier arrangement between Continental and Climax, which it appears was completed. By the end of April, 1943, Continental had shipped the agreed poundage of vanadium oxide to Climax, and Climax had converted this material in accordance with its part of the bargain. This earlier transaction stands alone in the record as the only connection between Climax and Continental. Thus even if Continental and Climax were threatened with reprisals, the evidence does not reveal the result of such threats. On the basis of the evidence in the case, the threat of reprisal appears to be one directed against a corporation with which Continental had no business, since the nature and existence of the alleged "pending negotiations" are not shown by the record. Appellants have thus failed to show any injury resulting from the alleged threats. There must be an injury, together with a wrong and a causal connection between the two, before liability can result.

The remaining instance given in the record is the so-called Imperial venture. On January 4, 1944, Continental Ore Corporation and Imperial Paper & Color Corporation, in-[fol. 2581] incorporated in New York, entered into a contract calling for the manufacture of vanadium products. Continental was appointed the exclusive sales agent for these products. Imperial was to pay Continental a commission on all sales made. Imperial was also to install the necessary equipment and give Continental the first opportunity to supply Imperial's total requirements for raw materials. Imperial had some raw materials of its own as by-products of its other business. The Continental-Imperial contract was made contingent upon the decision of Imperial to manufacture vanadium from other raw materials than its chromite by-products. If Imperial should decide not to enter this new field of production, the contract was to become null and void.

This is exactly what transpired. In December, 1944, Imperial wrote Continental that it was not yet willing to



begin the manufacture of ferro-vanadium as called for in the contract between them. It is clear from this letter that Imperial was worried over the sources of supply of vanadium-bearing raw materials. Similar letters from Imperial to Continental were written on April 9, April 13, and May 11, 1945. Sometime during 1945 Imperial decided not to go into the ferro-vanadium venture with Continental and chose to exercise its right under the contract to call the agreement off. The arrangement never got started. Imperial did not install the necessary equipment and no ferro-vanadium was produced.

The various communications from Imperial to Continental show clearly that Imperial was dissuaded from entering this field because of the lack of sources of raw material. It is the appellants' position that they could not get a steady, uniform supply of raw materials because of defendants' alleged antitrust infractions. There is a great deal of evidence showing that various sources of vanadium other than vanadium oxide mined on the Colorado plateau were available to Continental during the life of the Imperial contract. These included lead vanadate from Africa, vanadium ash from Peru, flue dust from ocean-going vessels burning certain Venezuelan and Mexican oils, and something called cuprodesclowitzite ores. Mr. Wolf, the vice-president of Continental, testified that it would be almost impossible to produce vanadium from these raw materials unless they could be gotten in a steady and uniform manner. Be that as it may, the evidence in regard to [fol. 2582] the period of the Imperial venture shows the failure on the part of appellants to offer to buy raw materials from the defendants. As we have observed in regard to the Van-Ex venture, both Electro Metallurgical Sales Corporation and Vanadium Corporation of America turned down requirements contracts with Continental late in 1943. At this time the supplies of Nisley & Wilson were available to Continental and were not procured from that firm. The Imperial contract was entered into in January, 1944, and canceled sometime in 1945. Yet from the end of 1943 until 1946, when Electro Metallurgical Sales Corporation gave Continental a requirements contract for vanadium oxide, appellants made no move to obtain the allegedly necessary



steady and uniform source of supply from any of the defendants. This is much like the Apex situation except that here there were no offers to buy during the entire life of Continental's arrangement with Imperial. Surely Continental cannot complain that the defendants did it wrong when it cannot show that it sought to alleviate its situation by seeking supplies from the defendants at any time during the life of the Imperial venture.

A judgment will be entered affirming the judgment of the District Court.

[File endorsement omitted]

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[fol. 2583]      [File endorsement omitted]

IN UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

No. 16149

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CONTINENTAL ORE COMPANY, et al., Appellants,

vs.

UNION CARBIDE AND CARBON CORPORATION, Appellees.

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JUDGMENT—Filed and entered March 22, 1961

Appeal from the United States District Court for the Northern District of California, Southern Division.

This Cause came on to be heard on the Transcript of Record from the United States District Court for the Northern District of California, Southern Division and was duly submitted.

On consideration whereof, It is now here ordered and adjudged by this Court, that the judgment of the said District Court in this Cause be, and hereby is affirmed, with costs in favor of the appellees and against the appellants.

It is further ordered and adjudged by this Court that the appellees recover against the appellants for their costs herein expended, and have execution therefor.

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[fol. 2584]

IN UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

Before: Magruder, Merrill, Circuit Judges and Solomon, District Judge.

MINUTE ENTRY OF ORDER DENYING PETITION FOR REHEARING  
—May 15, 1961

On consideration thereof, and by direction of the Court, It Is Ordered that the petition of appellants filed April 21, 1961, and within time allowed therefor by rule of court, for a rehearing of above cause be, and hereby is, denied.

[fol. 2585] Clerk's Certificate to foregoing transcript (omitted in printing).

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[fol. 2586]

SUPREME COURT OF THE UNITED STATES

No. 304, October Term, 1961

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CONTINENTAL ORE COMPANY, et al., Petitioners,

vs.

UNION CARBIDE AND CARBON CORPORATION, et al.

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ORDER ALLOWING CERTIORARI—October 23, 1961

The petition herein for a writ of certiorari to the United States Court of Appeals for the Ninth Circuit is granted limited to Questions 2, 5, and 6 presented by the petition which read as follows:

"2. Whether an Appellate Court can take away from a jury the question of causal effect concerning an injury by a 100% two-company monopoly (admittedly achieved pursuant to an intent to monopolize) when the question of violation is confessed and the issue of measurement of damages is more than sufficiently supported by relevant economic data and where the destruction of the plaintiff company (petitioners herein) was admitted to be, by a chief executive officer of a defendant, an important goal of the monopolists?

"5. Whether petitioners, an American company, can claim damages under the anti-trust laws for injury caused by their elimination from the Canadian market when it is shown that two other American companies had entered [fol. 2587] into a conspiracy to eliminate all competition and to monopolize the industry and when it is shown that as part of this conspiracy one of the American companies utilized its domination and control over a wholly owned Canadian subsidiary which had been given a discretionary power by the Canadian government to allocate the importation of vanadium into Canada during the war, to exclude the exports of petitioners (competitors) from entering Canada for sale to petitioners' Canadian customers and when it is shown that the refusal of the Canadian subsidiary to allocate vanadium to petitioners' Canadian customers was directed by its American parent company pursuant to the overall conspiracy to eliminate all competition and specifically to eliminate petitioners. This issue was erroneously decided against petitioners on the Court of Appeals' manifest misapplication of this Court's recent opinion in *Eastern Railroad Pres. Conf. v. Noerr Motor Frgt., Inc.* (1961), 365 U.S. 127, 81 S.Ct. 523.

"6. Whether petitioners, against whom a directed verdict was ordered by the Appellate Court, were deprived of a trial by jury by the Appellate Court below which weighed the evidence, made factual rulings on the sufficiency of evidence of causation, did not view the evidence as a whole, did not allow petitioners the benefit of all their evidence, did not allow petitioners the benefit of all inferences and presumptions to be drawn from the evidence and did not

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resolve all conflicts in the evidence in favor of petitioners in direct conflict with this Court's opinion in *Beacon Theatres, Inc. v. Westover*, 359 U.S. 500 (1959)."

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.